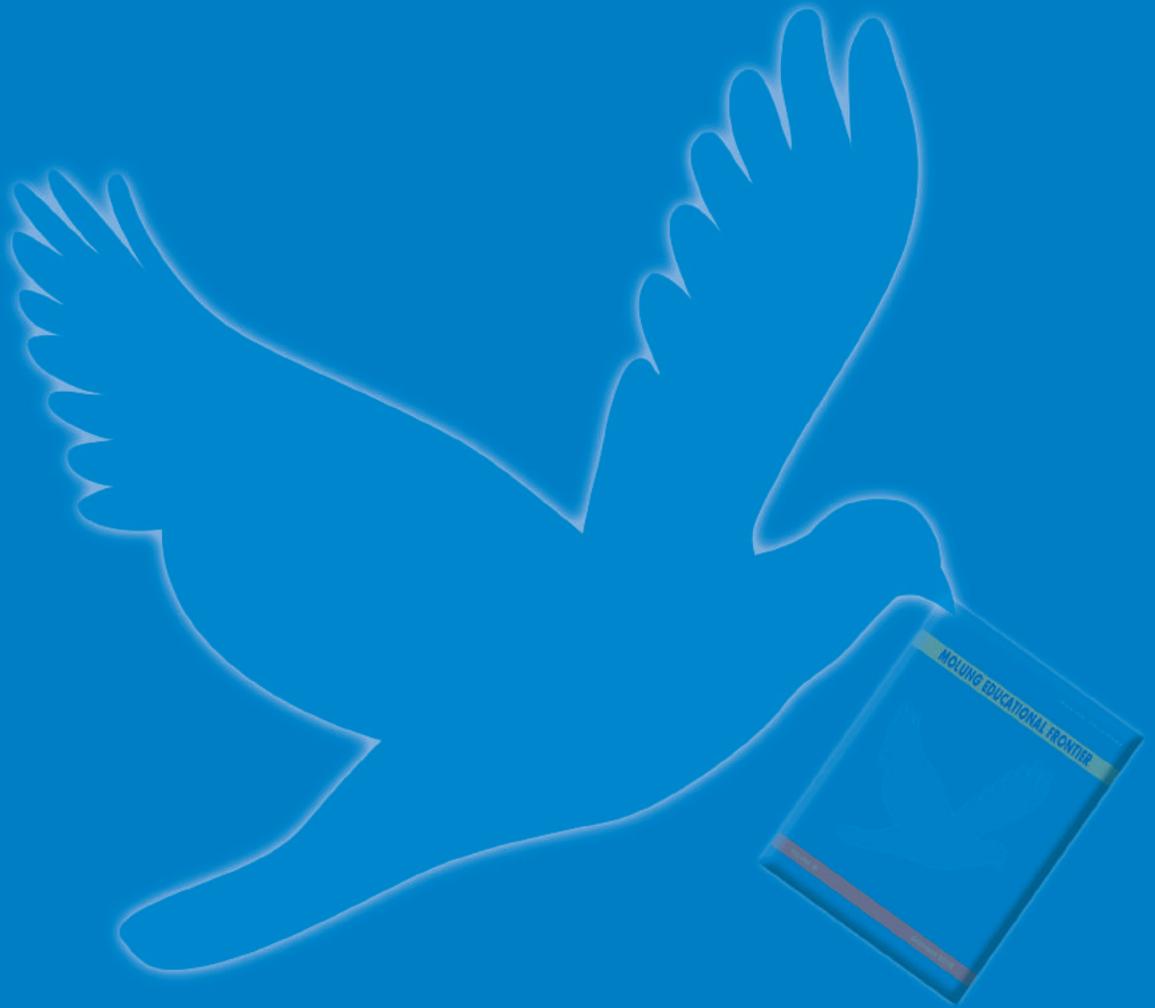


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## Editorial

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With the promulgation of the new Constitution of Nepal on 20 September 2015, Nepal is envisioned as a Federal Democratic Republic. As per the provision of the Schedule 4 of the Constitution, the country has been structured into seven provinces and 753 local governments. This restructuring of a formerly unitary state to a nation with federal structure offers myriad opportunities despite some challenges that might come across simultaneously. It is thus crucial to assure/guarantee good governance in all spheres/sectors such as legislatures, executives, and judiciaries of all levels and making the governance bodies more accountable to the people and the nation with their proper functioning. It is also equally important to strengthen all political, economic, social, and cultural/educational institutions and carefully work in all fields, but not limited to, infrastructure development, economic growth, trade and commerce, productivity increase, environment protection, and a host of other issues with the aim of achieving the goals of sustainable development.

Considering this as urgent need of the day Molung Foundation decided to call for research papers from among the scholars from home and abroad on the central theme **Strengthening Governance Structures in Federal Nepal: Moving towards Development and Prosperity**. The purpose for so doing was to provide a platform where experts from different fields - researchers, intellectuals, civil society members, development partners, practitioners, bureaucrats, policy makers and students in various fields of study would be involved into the research of these issues and suggest ways forward by sharing their valuable views on the issue.

As had been expected, a number of scholars agreed to send their plans and purposes of research and writing. On the basis of their abstract and the preliminary draft on different subthemes, the Foundation organized a symposium program on the issue whereby the researchers could get more insight into the matter and made their draft final. Then the Editorial Board sent all research papers without author's identity to the expert reviewers who offered valuable remarks and comments on the papers. Taking the reviewers' comments and suggestions positively the researchers revised their writings which the Editorial Board edited finally. Here is thus the final product of a peer reviewed journal in front of the public. The editorial Board would like to thank all researchers who made great effort to offer their research findings into papers and also Molung Foundation which took initiative to publish this scholarly journal.

15 December 2018  
Kathmandu

# Molung Educational Frontier

Volume 8, December 2018

## Table of Contents

<b>Author's Name</b>	<b>Title</b>	<b>Page</b>
<b>Chandra Lal Pandey Niraj Poudyal Dipesh Khadka</b>	<b>Resource Mapping and Indexing of Federal Provinces of Nepal: An Analysis</b>	<b>1</b>
<b>Dipesh Ghimire</b>	<b>Decentralization and Corruption: Does Decentralization Lead to Corruption in Local Level in Nepal?</b>	<b>17</b>
<b>Gokarna P. Gyawali</b>	<b>Federalism: Challenges and Opportunities in Nepal</b>	<b>37</b>
<b>Khagendra Prasai</b>	<b>Role of Youth in Strengthening Parliamentary Federal Democracy in Nepal</b>	<b>49</b>
<b>Lal Rapacha</b>	<b>Aspects of Federalism Implementation for Development and Prosperity</b>	<b>61</b>
<b>Lokindra Hari Bhattarai</b>	<b>Critical Appraisal of Governance and Justice: Then and Now in Nepal</b>	<b>77</b>
<b>Sanjeev Dahal</b>	<b>Re-envisioning Development Governance in Nepal: Exploring Collaboration between Development Organizations and Local Levels</b>	<b>91</b>

# Resource Mapping and Indexing of Federal Provinces of Nepal: An Analysis

Chandra Lal Pandey\*

Niraj Poudyal\*\*

Dipesh Khadka \*\*\*

## Abstract

Nepal has entered into a federal political structure with 7 provincial governments and 753 local municipalities (rural and urban). There is a paucity of evidence on the status of resources available in the seven provincial governments without which, estimation of resource gap and potentials of these provincial governments for appropriate policy interventions remains elusive. In this paper, we have prepared a resource map of the provincial governments and developed a resource index so that we can rank the provinces using the index. The resource index includes the dimensions of human resource (population), natural resource (arable land, forest coverage and water resources) and financial resources (tax revenue generated per person and GDP per capita). Our findings suggest that there is a high disparity of resource availability in seven different provinces. Provinces 6 and 7 located in the mid and far western regions are found developmentally challenged with low revenue collection and high poverty rate and migration. Provinces 2 and 5 have high levels of resources, wastage and inefficiency. Province 4 is found to be outstanding in terms of efficient resource use and knowledge, and if supported with more resources possesses high chance of becoming the role model province in Nepal.

*Key Words:* Resource mapping, federal provinces, GDP, guided democracy, failed state, transformations

## Introduction

The new constitution of Nepal 2015 envisages three levels of government system, namely, federal, provincial and local. The constitution also mandates that federal

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government prioritize on developing national policies whereas the provincial governments prioritize development activities of the provinces and the local governments design and implement national, provincial and local priorities in cooperation and collaboration with federal and provincial governments (GoN, 2015). However, there is a paucity of consolidated data about various resources each of the province has with the potential of developing further based on the theory of comparative advantage. So, the estimation of resource gap and potentials of these provinces for appropriate policy interventions remains elusive.

In this paper, we have prepared a resource map of the provincial governments and develop a resource index so that we can rank the provinces using the index. The resource index includes the dimensions of human resource (population), natural resource (arable land, forest coverage and water resources) and financial resources (tax revenue generated per person and GDP per capita). We conducted our analysis based on following three research questions: 1) Are the resource rich provinces/districts likely to have better outcomes in terms of HDI? 2) Are there any inefficiencies and lessons to be learned in terms of resource use? 3) Which resources among human, natural and capital plays the most significant role to increase HDI?

## **Background Study**

### **Political Development in Nepal**

The pace of development is determined by the political system a particular country practices or evolves through. If the political system becomes favorable, immense overarching development can be promoted for betterment of the country (Dahal, 2005). In this section, we present the political history of Nepal contextualizing how centralized monarchy and Ranarchy transformed into a federal republic of Nepal and impacted its developmental paths and underutilization of resources. Physically, Nepal lies in South Asia along the southern slopes of the Himalayan mountain ranges. It is a landlocked country situated between the Tibet Autonomous region of China to the north and India to the east, south, and west. Its territory extends roughly 500 miles (800 kilometers) from east to west and 80 to 150 miles from north to south (Pandey, 2017). The capital of modern Nepal is Kathmandu located in the province no. 3 out of the 7 provinces.

Shahs and Ranas ruled Nepal for more than 200 years ever since the late King Prithivi Narayan Shah conquered Malla dynasty in Kathmandu and laid foundations for unified kingdom of Nepal. The position of the Shah dynasty was weakened by the fact that the two kings who ruled successively between 1777 and 1832 were minors when they ascended the throne, providing opportunities for the regents and the nobility to compete for political power, using the young rulers as puppets. The regents and nobility

strived for a monopoly of political power and offices for their families, with their rivals exterminated, exiled to India, or placed in a subordinate status. This was achieved by the Thapa family from 1806 to 1837 and even more extensively by the Rana family from 1846 to 1951 (Encyclopedia Britannica Inc., 2018). Since 1846, Nepal fell under the sway of hereditary Prime Ministers known as Ranas from Monarchy, who dominated the monarchy and cut off country from the outside world. Ranas captured natural resources of the country on the basis of privatization and individual wealth instead of overall national development.

In 1950, Anti-Rana forces of Nepal based in India formed alliance with King Tribhuvan to end Rana rule. The 1951 revolution replaced the century-old Rana oligarchy with a democratic dispensation through people's revolt supported by the then titular king (Panday, 2018). The sovereignty of crown was restored and the then revolutionary Nepali Congress Party also joined the government led by Rana Prime Minister. King Tribhuvan passed away in 1955 and King Mahendra ascended the throne. In 1959, first parliamentary election was held along with the adaptation of a new multi-party constitution but King Mahendra seized control on power and suspended parliament, the constitution and party politics after Nepali Congress Party (NCP) wins elections with B. P. Koirala as Prime Minister in 1960. A new constitution was promulgated in 1962, which provisioned for non-party system of councils known as "Panchayat" under which king exercised the sole power. First elections to party less Rastrya Panchayat were held in 1963 to practice the sovereign monarchical Panchayat system in which the sovereignty of the state lied in the hand of the monarchy not the people. The primary aim of the then king to establish a form of "guided democracy" in the name of what was called the Panchayat system was fulfilled which banned political parties, electoral competition, economic and social programs (Panday, 2018). During this period, the natural resources of the country were nationalized from private ownership but communities and the significance of natural resources such as forest for communities were ignored (Gurung, et al. 2011).

The Maoist insurgency that commenced in 1995, one of the reasons of which is elite resource capture, ended in 2006 did not allow taking place of local elections ever since 1997 and the representatives elected in 1997 completed their tenure under threats by 2002. In the absence of local elected representatives, various mechanisms were introduced as interim arrangements. The decision-making authority was handed to bureaucrats in the beginning and later a mechanism called all party mechanism (APM) was established in 2009 in order to allow bureaucrats to legitimize their decisions and the politics of "Bhagbanda" began introducing massive corruption in the local decision-making system. Although the APM was dissolved in 2012 on the accusation of massive

corruption, the practice of legitimizing local decisions through local leaders of major political parties remained in practice, allowing the bureaucrats to keep their hand on the top of decision-making. Massive corruption, lack of transparency in the decision-making, vertical accountability of bureaucrats and no-horizontal accountability of local politicians weakened local democracy and paralyzed the democratic system of decision-making, program implementation, and evaluation.

In the spirit of achieving transformative development by reducing discrepancies of development disparity in various rural urban regions of Nepal and execute the spirit of the Constitution of 2015, the federal structure was brought into practice with three levels of governments which include: a) 1 federal government; b) 7 provincial governments and; c) 753 rural/urban municipal governments. However, the analysis of Nepal's development history particularly shows that the focus was continuously on political transformation, avoiding issues of human and natural resources development and maximum utility of both human and natural resources were minimalized.

### **Development History and Emerging Challenges**

Nepal began its plan development system since 1956 by adopting the policy of mixed economy combing the characteristics of both capitalist and social economies, with the end of Ranarchy, by introducing the first five-year plan (GoN, 1956; Dahal, 2005). Planned development tried to divert the resources for uplifting the life of mass, changing socio political condition and demand of time regarding the switch in economic policies. Prior to 1956, the development programs were designed rather on ad-hoc basis. The reviews of periodic plans of Nepal demonstrate that there has been five major turns in the development history of Nepal (Srivastava, 2008). The first turn can be recognized as the introduction of planned development shifting from ad-hoc systems of development. The first development plan prioritized to raise production, employment, standards of living and general well being throughout the country, thus opening out to the people opportunities for a richer and more satisfying life (GoN, 1956). The second major turn can be noticed with the introduction of the fifth development plan designed for the period of 1975 to 1980. The fifth plan was unique as it recognized poverty, agricultural development, industrial production, social services and population control as the issues of immediate priorities (GoN, 1975). The key objectives of the fifth plan were: i) increase in the production of peoples' requirements; b) maximum utilization of labor power; c) regional development balance and unification of the regions for strengthening the capacity of the state. The fifth plan had some key policy implications, which included investment in production structure for economic stability by mobilizing internal resources, developing labour intensive technology, and industrial arrangement, increasing and diversifying of foreign trade and reforming land ownership and use practices.

The third major turn takes place with the inception of the eight periodic plan for a period of 1992-1997. The eight periodic five year plan was introduced after the restoration of democracy with a new pattern, changed vision and strategies to meet the desires of people who had fought for the democracy and multi party system for long, setting the objectives of attaining sustainable economic growth, alleviating poverty and reducing regional disparity (GoN, 1992). Privatization, economic liberalization, sustainable economic growth, poverty alleviation, reduction of regional imbalances, disparities between rural and urban areas came to be the important issues of public policy. In this context, the perspectives of this plan are based on two principal contradictory factors. These factors consist of, on the one hand, the positive aspects of the new aspirations and enthusiasm among the general public and, on the other, the negative aspects of the legacy of economic depravity left behind by the Panchayat regime (GoN, 1992). The fourth major turn takes place with the introduction of the Tenth Plan to be implemented for a period from 2002 to 2007. It was considered to be the strategic document for alleviating poverty and its only objective was prioritized on poverty alleviation. The four strategic pillars adopted by the tenth plan for poverty alleviation were a) high, sustainable and broad based economic growth, b) social sector and rural infrastructure development, c) targeted programme and d) good governance (GoN, 2002). The next major turn takes place with the introduction of the Fourteenth Plan being implemented from 2016 to 2019. It has set a target of attaining seven per cent economic growth during this period, creation of employment opportunities with the distribution priority of development plans as per the principle of social justice (GoN, 2016).

The genesis of planned development in Nepal commenced on the year 1956 A.D. Since then fourteenth periodic plans which included four three-year plans and nine five-year plans have already been completed and the fourteenth three-year plan is underway implementation process. Historically, the state had been constructed from the top down with little or no interaction, discussion or pressure from organized societal interest, resulting in the public being recipients of policy but not a part of the policy making process. Before policy liberalization in the 1990s, Nepal's policy-making practices emphasized political considerations over economic development. It was only after policy liberalization that Nepal's policy-making practices witnessed rapid changes. First the parliamentary monarchy was established with a system that incorporated public representation through elections in the parliament and on December 28, 2007, the Interim Parliament passed a bill and declared Nepal to become a Federal Democratic Republic. The first meeting of the Constituent Assembly officially implemented that declaration on May 28, 2008. Despite the progressive reform in policy-making, the process has been plagued by slippage and implementation delays arising primarily due to political uncertainty and conflict. Dahal (2005, p. 361) argues that "The modern democratic and

participatory concepts including good governance has been advocated in Nepalese planning in a highly centralized country which has not yet developed the minimum norms of governance and the nation, consequently, is heading towards bad governance raising serious question of ‘failed state’”.

The federal Constitution of Nepal 2015 schematizes three kinds of functional jurisdictions for three levels of the government. They are the exclusive (enumerated), concurrent and residuary jurisdictions. Cooperative, not competitive type federalism, has been envisaged in terms of distribution of functional jurisdiction where all levels of the government are involved in discharging the same function with different roles and capacity. It is a form of collaborative federalism (marble cake layer federalism), not competitive federalism/ dual federalism. And some discrepancies, overlaps and contradictions exist in the allocation of functions and authority among the three levels of the governments.

The Constitution of Nepal (2015) has provisioned policies relating to protection, promotion and use of natural resources. It stipulates, inter alia, to protect, promote, and make environmental friendly and sustainable use of, natural resources available in the country, in consonance with national interest and adopting the concept of intergenerational equity, and make equitable distribution of fruits, according to the priority and preferential right to the local communities and make multi-purpose development of water resources for reliable clean drinking water, irrigation, and control of water-induced disasters, and river management.

According to the Constitution of Nepal (2015) the Federation, State and Local level shall provide for the equitable distribution of benefits derived from the use of natural resources or development. Certain portions of such benefits shall be distributed, pursuant to law, in forms of royalty, services or goods to the project affected regions and local communities. If, in utilizing natural resources, the local community desires to make investment therein, the Federation, State and Local level shall accord priority to such investment in such portion as provided bylaw on the basis of the nature and size of such investment.

The Constitution of Nepal (2015) has also developed 9 schedules, out of which schedules 6, 7, 8, and 9 have provisioned federal, state, local and concurrent powers. The management of natural resources falls within the domain of both federal and state and likely to produce conflicts within provinces in relation to possession of resources and their utilization of province development. Resource conflicts often originate in situations of scarcity wherein the demand for land, forests, water and other resources far outstrips the supply, a situation made worse by demographic pressures, natural disasters, climate change and social inequality (Burnett 2016). Resource conflicts may have class

dimensions, political dimensions, social dimensions and cultural dimensions (Buckles and Rusnak 1999). Therefore, it is necessary to consider seriously and reflect profoundly on questions such as how the states use natural resources in terms of ownership. What kind of decisions regarding natural resources-related issues can maximise the benefits for the provinces, the people and federal Nepal? Federal Nepal must seriously ponder upon potential natural resources conflicts to avoid wars of the kind recently observed in various Indian and Pakistani provinces (Pandey, 2016a).

However, the lack of not having consolidated database system, knowledge gap with elected leaders for the use of authentic and devolved powers, authority and resources, and the long-standing characteristic of Nepal being a centralized unitary system of state for more than 200 years and bureaucracy trained to work in such circumstances, implementing federalism in sustainable manners remain a challenge. The challenges of identification of provincial and local resources still remain a herculean undertaking and through this research, we aim to contribute to the gap of provincial resource mapping index.

### **Data**

To prepare this paper, we primarily relied on secondary data of Government of Nepal, which were extracted from National Population and Housing Census Report 2011, Central Bureau of Statistics, Nepal Human Development Report 2014, Inland Revenue Department, and the Department of Local Infrastructure Development and Agricultural Roads. We collected following categories data: population, literacy rate (5+year) age group, number of economically active population above 10+age group; per-capita income; road network in kilometer; provincial area in kilometer<sup>2</sup>; forest size in ha; agriculture and grass land in ha; water in ha; total population (10+) in number; and HDI.

The district population data, population data of (5+ year) and literacy rate (5+ year age group) data were taken from the Nation Population and Housing Census Report 2011, published by Central Bureau of Statistics Nepal. As the separate provincial data were not available, the total population, population data of (5+ year) and literacy rate (5+ year age group) of Nawalparasi district were equally divided to provinces 4 and 5. Similarly, the total population, population data of (5+ year) and literacy rate (5+ year age group) of Rukum district were also equally divided to provinces 5 and 6. Literacy rate (%) was calculated by dividing the total number of people in the district who can read and write by the total population of the district, which was 5 years and above.

The economically active population (10+ age group) data was taken from the Statistical Year Book 2015, published by Central Bureau of Statistics of Nepal. The economically active population was the total of usually active population and not usually

active population out of 10 years of age and over population. As the separate provincial data was not available, the total economically active population of Nawalparasi district was equally distributed to provinces 4 and 5. Similarly, the total economically active population of Rukum district was also equally distributed to provinces 5 and 6.

The Per capita income (in US dollar) data was taken from the Nepal Human Development Report 2014 jointly published by Government of Nepal, National Planning Commission and United Nations Development Programme. As the separate provincial data was not available, the total per capita income of Nawalparasi district was equally distributed to provinces 4 and 5. Similarly, the total per capita income of Rukum district was also equally distributed to provinces 5 and 6.

The HDI (2011) data was taken from the Nepal Human Development Report 2014 (Table A4.2) jointly published by Government of Nepal, National Planning Commission and United Nations Development Programme. As the separate provincial data was not available, the HDI of Nawalparasi district was equally distributed to provinces 4 and 5. Similarly, the HDI of Rukum district was also equally distributed to provinces 5 and 6.

The road network data in kilometer was extracted from the report titled “Statistics of Local Road network (SLRN) 2016” published by Department of Local Infrastructure Development and Agricultural Roads (DoLIDAR). This data represents the total road network in a district. As the separate provincial data was not available, the total road network of Nawalparasi district was equally divided to provinces 4 and 5. Similarly, the total road network of Rukum district was also equally divided to provinces 5 and 6.

The area in kilometer<sup>2</sup> data represents the total area of a district. This data was extracted from the National Population and Housing Census of Nepal 2011, table no.12. As the separate provincial data was not available, the total area of Nawalparasi district is equally divided to provinces 4 and 5. Similarly, the total area of Rukum district was also equally divided to provinces 5 and 6.

The forest data represents the total forest area in a district. The agricultural land/grass land data represents the total area of agriculture/grass land in a district. The water resource data represents the total area of water bodies in a district. These data were extracted from the report titled ‘Compendium of Environment Statistics Nepal 2015’, published by Central Bureau of Statistics, Government of Nepal. As the separate provincial data were not available, the total forest area, the total agriculture/grass land area and the total area of water bodies of Nawalparasi district were equally divided to provinces 4 and 5. Similarly, the total forest area and total agriculture/grass land area and the total area of water bodies of Rukum district were also equally divided to provinces 5 and 6.

The total population (10+ year) data represents the total population of a district which was ten years and above in age. This data was taken from the Statistical Year Book 2015, published by Central Bureau of Statistics of Nepal.

## Methods

The paper develops a resource index (*RI*) for districts as well as provinces as follows

$$\mathit{human} = \mathit{ecoactive} \times \mathit{literacy}$$

*ecoactive*

= *percentage of population 10 years and above who are economically active*

*literacy* = *percentage of population 5 years and above who can read and write*

Multiplying *ecoactive* by *literacy* gives the literacy adjusted active population incorporating the human capital aspect of active population. For example, if the literacy rate is only 50%, it is considered as 50% worth of 100% literate economically active population in terms of quality of human resource. So, the value of *human* will be higher either if *ecoactive* is higher or *literacy* is higher.

*natural*

$$= \frac{\mathit{forest\ area\ (km^2)} \times \mathit{agricultural\ land\ area\ (km^2)} \times \mathit{water\ surface\ area\ (km^2)}}{(\mathit{total\ land\ area\ (km^2)})^3}$$

This measures the amount of natural resources in a province or a district. It is assumed that more forest, agricultural land or water surface area means more natural resources. This cannot exceed 1. If any of the three area is zero (e.g. forest area is 0), then the value of *natural* would be zero.

$$\mathit{capital} = \frac{\mathit{total\ road\ length\ (km)}}{\mathit{total\ land\ area\ (km^2)}}$$

This is the indicator of physical capital available in a district or province. More roads mean more capital resources.

Once the values of *human*, *natural* and *capital* were computed they were normalized so that the lowest value becomes zero and the highest value becomes 1 as follows.

$$\mathit{Normalized\ index\ (h, n, k)} = \frac{x - \min(x)}{\max(x) - \min(x)}, x = \mathit{human, natural, capital}$$

Now, the value of resource index is given by:

$$RI = \frac{1}{3}human + \frac{1}{3}natural + \frac{1}{3}capital$$

$$Normalized RI = \frac{1}{3}h + \frac{1}{3}n + \frac{1}{3}k$$

Where  $0 \leq RI \leq 1$  and  $h, n, k \in (0,1)$ .

## Results

Results of the computation of the three resource indices are presented below in Table 1. Based on the results in Table 1, basically four types of provinces are identified. Type 1: 2 and 5 (Inefficient); Type 2: 1 and 3 (prosperous); Type 3: 4 (efficient); Type 4: 6 and 7 (resource poor). The average values of the resource index and the HDI are used as thresholds for the categorization. Column “Analysis” is the short analysis of the results and the last column spells brief policy prescriptions for the respective provinces in terms of learning lessons from other provinces.

**Table 1**

Resource Indices and HDI for the seven provinces

Provinces	Human	Natural	Capital	Normalized Resource Index	HDI	Analysis	Policy prescription
1	1.000	0.584	0.578	0.721	0.553	High resource high performance	Keep it up and learn from 4
2	0.000	1.000	0.836	0.612	0.485	More resource but low performance	Reduce wastage and inefficiency
3	0.787	0.508	1.000	0.765	0.560	Very high resource high performance	Keep it up and learn from 4 Outstanding. Share the knowledge and experience. Should be supported with more resources
4	0.957	0.000	0.553	0.503	0.568	Low resources but very high performance	Reduce wastage and inefficiency
5	0.760	0.604	0.632	0.665	0.508	More resource but low performance	Give more resources and learn from 4
6	0.665	0.012	0.000	0.226	0.467	Low resource and low performance	Give more resources and learn from 4
7	0.694	0.540	0.182	0.472	0.491	Low resource and low performance	Give more resources and learn from 4
Average	0.954	0.501	0.553	0.577	0.519		

As can be seen in Table 1, Province 3 is the richest province in terms of the three resources considered (in terms of *Normalized RI*) for this study while as province 6 is poorest on these resources. In terms of outcomes (measured by *HDI*) Province 3 and 4 are at the top and Province 2 and 6 are at the bottom.

But the resource richness for each province is different from each other. For example, the poorest province in terms of human resource is Province 2. Province 1, due to its high literacy, is richest in terms of human resources followed by Province 4. With respect to natural resources, province 2 is the richest one due to its forest coverage. Province 2 comes second in terms of capital resources due to easy road access in its districts. In terms of capital resource, Province 3 is the richest province and Province 6 is the poorest province.

Despite having relatively higher level of resources, HDI outcome of Province 2 is relatively low indicating that resources are being wasted and used inefficiently. On the other hand, Province 4, despite having relatively poor in resources (poorest for natural resources), its HDI is highest among all the provinces. Province 4 is an outstanding province and it needs to share its experience of working efficiently despite having resource constraints with other provinces. Kaski, a district of Province 4, is the outstanding district for its efficient use of limited resources to attain high level of human development.

The computation of the resource index (*RI*) and its mapping with HDI is presented in graph as follows.

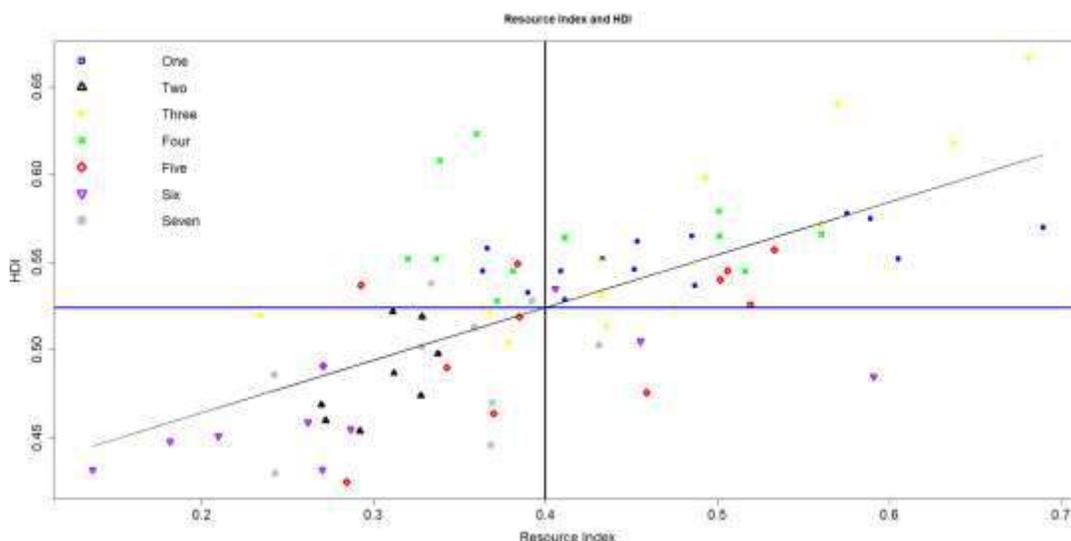


Figure 1: HDI and Resource Index mapped for the districts of Nepal.

Note: Each colored-shape represents different province of Nepal.

A regression analysis is done to evaluate the role of various resources on *HDI*. Table 2 is the summary of the regression analysis. A linear regression model is estimated using ordinary least square (OLS) method. Province dummy is included.

**Table 2**  
Regression Analysis Summary

Variables	Model 1		Model 2		Model 3	
	Coefficient	p-value	Coefficient	p-value	Coefficient	p-value
<i>(Intercept)</i>	0.548	0.000	0.458	0.000	0.466	0.000
<i>Province Five</i>	-0.029	0.045	-0.027	0.039	-0.038	0.003
<i>Province Four</i>	0.026	0.059	0.015	0.233	0.015	0.213
<i>Province One</i>	0.016	0.262	-0.003	0.844	-0.010	0.404
<i>Province Seven</i>	-0.032	0.055	-0.028	0.059	-0.044	0.002
<i>Province Six</i>	-0.052	0.002	-0.043	0.004	-0.059	0.000
<i>Province Two</i>	-0.061	0.003	-0.017	0.346	-0.042	0.005
<i>Working population</i>	-0.053	0.388				
<i>Road area</i>	0.042	0.000				
<i>Forest area</i>	-0.003	0.867				
<i>Agricultural land area</i>	-0.011	0.703				
<i>Water surface area</i>	0.101	0.884				
<b>human</b>			0.090	0.001		
<b>natural</b>			0.009	0.742		
<b>capital</b>			0.105	0.000		
<b>RI</b>					0.204	0.000
<b>R<sup>2</sup></b>	0.668		0.715		0.685	
<b>N = 77</b>						

In Table 2, bold coefficients are the significant explanatory variables that explain the variation in HDI. Province 3 is used as base category in the regression model. If positive, the coefficients of other provinces can be interpreted as being more than that of Province 3. It turns out that natural resources are not statistically significant determinants of a district's HDI whether the resources are used as regressors separately or as indices. The two resources: capital and human are highly significant to explain the variation in HDI. More capital and human resources would mean significantly higher HDI. When all the resource variables are replaced by the *RI*, the value of  $R^2$  reduces from 0.715 to 0.685, which is substantively insignificant, indicating that the *RI* represents all the resources considered for this study.

### Discussion

The planned development of Nepal which began from 1956 has already completed a journey of over six decades. Issues of fundamental civil rights, ensuring social justice, finding paths towards achieving economic development, and making societies prosperous are the primary items in the development agenda of Nepal (GoN, 2016). There has been a paradigm shift in relation to political system in Nepal, transforming from Monarchy to a Federal Republic. The Nepali model of federalism is unique from many other countries of the world for its very characteristics of collaborative

and cooperative models of federal, provincial and local governments. Reviews of federalism in global scale today show that political, cultural, economic, and social change are undergoing at an unprecedented rate, and federal countries are experiencing continuous transformation (Blindenbacher and Saunders, 2005). They are therefore faced with the need to develop an ability to learn and adapt in order to cope with the challenges they face. Although the circumstances in each federation are different, many of the problems they face are common—about resources—to all.

In this section, we discuss the experiences of other federations to allow us to foresee more clearly the likely consequences of various arrangements and resources availability and unavailability and potential transformative development opportunities in the provinces of Nepal. We limit this study to focus on three federal governments only (Canada, Nigeria and India) and the challenges they are confronting.

The constitution of Canada divides power between the federal and provincial governments as well as the territories. The federal government holds sole authority to regulate certain activities in trade, transportation, commerce and environmental issues. Land related matter is handled through the use of land right treaties or land claims (Andre Lecours, 2009). Canada provides jurisdictional authority to provincial and territorial governments in matters relating to property rights, electricity and natural resources. Although Canada has ten provinces particularly Ontario, Quebec, Alberta, and British Columbia often challenge the federal government of Ottawa because, in the Canadian context, they are political centers of power supported by important social, economic, and human and natural resources (Esman, 1984). In Canada, conflicts over oil and gas revenues and prices between producing and consuming regions and between federal and provincial governments have become prominently contested issues since the early 1970s (Simeon, 1980). The British Columbia province tops the provinces with an excellent overall performance in Canada followed by Ontario and resource-rich Alberta, and Saskatchewan (The Conference Board of Canada, 2017), indicating that having appropriate and effective human and natural resources can provide economic liberty of one province to others.

Nigeria has thirty-six states divided through eight times amendment. The conflicts of resource control are historically a germane issue in Nigerian government and politics. This is largely because of the value attached to resources by the government and the people whose land the resources are domiciled (Shebbs& Njoku, 2016). Although Nigeria is rich in relations to natural resources primarily oil, the resource control system in Nigeria is not having a positive impact on the lives of the people, which forms the basis for most resource conflicts in the inter-state and inter-regions of the country. “There is a strong indication that things have gone absolutely wrong with the way resources are being controlled in Nigeria. But there can be a turnaround when there is an integrative action toward achieving democratic goals for the local communities” (Shebbs& Njoku, 2016). The North-South divisions of Nigeria along with the states located in these areas enjoy or lose the opportunity of being resourceful or non-resourceful in their development plans and provincial prosperity. The northern region has abundance of natural resources yet the southern region and provinces perform better in relation to

development and HDI. The response to why the southern provinces benefit more than the northern ones could be that the existence of federal government is in the south, which is flushed with oil rents, promotion of service-sector industries and continuous exploitation of natural and human resources available in the provinces and in the northern region (Dapel, 2018), leading to establish Boko Haram, an armed group, to push the country in war.

Likewise, Indian federal constitutional republic consists of 29 states and 7 union territories. India is the world's third-largest producer of iron ore and coal. Mining is one of the most lucrative resource businesses in India, causing conflicts and displacing people to exploit their land (Ghatak, 2012). The interstate wars over resources are becoming common in India. Since India acquired independence, a large number of inter-state water disputes cropped up over the use of rivers (Gautam, 1976) and the latest one was on the issue of water resources between Tamil Nadu and Karnataka in 2017 (Pandey, 2016a). Maharashtra is the richest state with GDP of US\$ 233 billion followed by Uttar Pradesh and Andhra Pradesh. Although Maharashtra is not very rich in terms of natural resources, its second largest size of population, high level investment in quality education, inclusive development approach prioritizing agriculture, industry and services, good quality fertile land and plenty of rain creates an enabling condition for it to be the highest GDP earning state in India.

The availability of qualified high-quality human resources and abundance of natural resources are the major indicators to become a state resourceful and developed, however, having abundance of resources without having vibrant and high-quality human resources may not always result in to be one of the best performing states in relation to economic efficiency and good HDI. In this context, our study found that having abundance of natural resources alone or human resources alone in isolated patterns might not result in to best performance of any province. We found that province 3 is the richest province in terms of the three resources considered for this study while as province 6 is poorest on these resources. In terms of outcomes (measured by *HDI*) Province 3 and 4 are at the top and Province 2 and 6 are at the bottom. While province 2 has relatively higher level of resources, its HDI outcome of is relatively low indicating that resources are being wasted and used inefficiently, on the other hand, province 4, despite having relatively poor in resources (poorest for natural resources), its HDI is highest among all the provinces. Province 4 is an outstanding province and it needs to share its experience of working efficiently despite having resource constraints with other provinces. Kaski, a district of Province 4, is the outstanding district for its efficient use of limited resources to attain high level of human development.

### Conclusion

This study presented that the negligence of natural resources and human capital in the history of Nepal's political development and transformation has impacted the overall development of Nepal. The global literature reviews conducted for this study and our resource index concomitantly demonstrate that to be the best performing province, having natural resources alone or human resources alone in isolated patterns are not enough rather if they evolve in integrated patterns interacting with one another with highly

skilled human resources can lead the provinces to provincial prosperity leading to fulfill national interest of graduating Nepal from least developed country to developing one. Our study concluded that although province 4 is average in terms of possessing natural resources, investment in education and availability of high skilled human resources excelled all other provinces, which possess abundance of natural resources and immense population size.

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## Decentralization and Corruption: Does Decentralization Lead to Corruption in Local Level in Nepal?

Dipesh Kumar Ghimire\*

### Abstract

Federalism has been constitutionally uniting separate political communities in a limited by encompassing political community (Kincaid and Tarr 2005). Federalism as a mode of governance is concerned with combining 'self-rule and shared rule' (Elazar, 1987), where by the constituent members of the federal union can govern themselves autonomously while they and their citizen also participate together in the common national governing regime, which is autonomous within its sphere of constitutional authority (Kincaid, 2011). Federalism is the extreme form of decentralization. Similarly, corruption is defined as exercise of official powers against public interest or the abuse of public office for private gain. Corruption is a symptom of degeneration of the relationship between the state and the people, characterized by bribery, extortion and nepotism (Altas, 1968). Similarly, Sen (1999) defines corruption or corrupt behavior as "the violation of established rules for personal gains and profits".

This article tries to explore the relationship among federalism, decentralization and corruption. My finding is: constitutional, political and spatial decentralization is very strong and fiscal decentralization is very weak in Nepal. Fiscal decentralization plays vital role to improve quality of governance. However, lack of proper fiscal decentralization and highly constitutional, political and spatial federalism or decentralization promote corruption in the local level. Similarly the monitoring mechanism and vertical controls system are very weak in Nepal. It shows that the localization process motivate to corrupt behavior among public authorities.

*Key Words:* Federalism, decentralization, corruption, governance

### Introduction

The Article 4 of the Constitution of Nepal, promulgated on September 20, 2015, has declared Nepal as a 'Federal Democratic Republican State'. Generally, Federalism is defined as the division of state into several independent provinces and local governments where the power of the government is constitutionally divided into central authority and constituent political units. Some scholars argue that federal states have high level of corruption and it promotes corruption in the local level. At the same time, other scholars have found that federalism and decentralization is associated with lower level of

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corruption. This paper tries to explore the relationship among federalism, decentralization and corruption in the context of Nepal.

This article is based on the secondary data. The content analysis method is applied to collect the data. The article is divided into five sections. The first section gives an introduction. The second section introduces the concepts of federalism, decentralization and corruption, while the third section unfolds the relationship among federalism, decentralization and corruption. Similarly, the fourth section deals with decentralization and corruption in Nepal and the conclusions are given in the final section.

### **Understanding Federalism, Decentralization and Corruption**

There is no universally applicable definition of federalism and federal systems of governance. Many scholars have defined federalism in several ways. A variety of definitions of federalism may be found but there is an agreement on basic feature; a guaranteed division of power between central, regional and local governments. Federalism is a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions (Riker, 1975 cited in Lijphart, 1999; 186).

Elazar (1997 cited in Lijphart, 1999; 187) gives more emphasizes on 'non-centralization' of power in federalism. He sees federalism as the fundamental distribution of power among multiple centers...not the devolution of powers from a single center down a pyramid'.

There have been some distinctions between federalism and decentralization. For instance, under the federalism, the autonomy of member states has been established and guaranteed on a constitutional, not legislative, as it is the case with decentralized units. However, federalism is taken as decentralized governance system. Because, both the concepts have common aim of equipping people with fundamental rights and give access to constitutional, political, regional and financial rights. According to Basta (nd) decentralization implies the transfer of powers of national government or its agents to the representatives of local territorial collectivities whereby the latter are not directly responsible either to the national government or to its agent. In Nepal the federalism has furnished local level government with special rights and has dreamt of strong local government. Thus, I have taken federalism as the decentralized governance system in this article.

### **Corruption: Violation of Established Rules for Personal Gains**

There is not a single definition of corruption that is popularly accepted. Many scholars have defined corruption in different ways. Nas et. al. (1986: 108) have defined a

corrupt act as any illegitimate use of public power or authority for private benefit. According to them, corruption is a product of individual and structural variables that interact to produce both positive and negative consequences. Individual level consideration such as greed and the likelihood of detection and prosecution suggest one set of policies for reducing corruption. Corruption is the moral incapacity of citizens to make reasonably disinterested commitments to actions, symbols and institutions which benefit the substantive common welfare (Dobel 1978; 958). Corruption is the abuse of public office or position for private gain (Zakiuddin 2000). Similarly Amuwo (2005) defines corruption as the exploitation of public position, authorities, power, resources for private interest and gain. In the same way, Altas (1968) defines corruption as a symptom of degeneration of the relationship between the state and the citizen. It will be characterized by extortion, nepotism, bribery. Sen (1999) defines corruption as the violation of established rules for private or personal gains or profits.

Heidenheimer (1970; 3-9) describes three types of corruption in the society: public office-centered, market-centered and public interest-centered. Public office centered definition focuses on the violation of the public place by the official; market-centered definition refers to maximize personal gain by dispensing public benefits. Similarly, public-interest centered definition focuses on the violation of the common interest in favor of special interests that provide direct or indirect benefit to government officials. TI (2011) has developed a working definition of corruption. It is defined as "the abuse of entrusted power for private gain."

### **Relationship between Decentralization and Corruption: Lessons from Others**

Evaluating the results of decentralization in the local level is not an easy task. The study of relationship between decentralization and corruption is very complex. Decentralization is multifaceted and can give rise to mixed predictions (Fjelstad 2004). Some scholars argue that centralized governments are more corrupt whereas others find decentralized ones are more corrupt. However, there are no clear-cut findings and conclusions on the relationship and linkages between decentralization and corruption. There are equal groups of intellectuals supporting and opposing the relationship between decentralization and corruption. Many say that decentralization leads to more corruption while other says that it decreases corruption. The perspectives of both groups have been mentioned here.

Many scholars argue that the local governments provide the efficiency, accountability and transparency in local level. Local governments have the potential to perform better; and they also argue that the close relationship between citizens and government at the local level fosters better accountability.

Breton (1996) finds that the competition between different levels and layers of government will lead to less corruption in the public services. Shleifer and Vishny (1993) argue that a very decentralized may suffer less from the damaging effects of corruption. Wingast (1995) argues that federalism contributes to more honest and efficient government by providing for competition between sub-jurisdictions. Fisman and Gatti (2002a) also agree with them. According to them fiscal decentralization in government expenditure is strongly and significantly associated with local corruption. In a similar way, Gulsun (2000) finds out that increased decentralization causes more competition for capital among jurisdictions resulting in a lower level corruption. Gurgur and Shah (2000) also argue that decentralization has a greater negative impact on corruption. Decentralization supports greater accountability in the public sector and reduces corruption. USAID and World Bank (2000) have conducted a survey and find that the local governments are perceived to be less corrupt than central and provincial governments.

However, other scholars do not agree with these findings. They strongly believe that decentralization will lead to more corruption. Banfield (1979:98) argues that decentralized political systems are more corruptible. Manor (1999; 101) argues that decentralization is always attended by an increase in the number of persons who are involved in corrupt acts and corruption may be rampant at the local level. Prud'home (1995; 211) finds that the decentralization provides more opportunities for corruption at the local level. There are two reasons behind it. First, local officials usually have more discretionary powers than national decision-makers. Second, local bureaucrats and politicians are likely to be more subject to pressing demands from local interest groups in matters such as taxation. In a similar way, Carbonera (2000) argues that more decentralization has positive impact on corruption, raising the individual's propensity to accept bribes.

Political accountability in poor countries is, particularly, affected by the likelihood of corruption or capture by interest groups. Local governments may be more vulnerable to capture by local elites (Bardhan 2002: 192). The possibility of capturing of local governments and administration by the elites is very high. While there is capture of local governments, there is a tendency for services to be overprovided to local elites at the expense of non-elites (Fjeldstad, 2001:4). According to him expenditure decentralization is highly vulnerable to corruption. There are four reasons. First, local capture by elites, second, local financing constraints, third inter-jurisdictional conflicts and finally, lack of adequate cost information of bargaining power of local government official vis-à-vis service suppliers. Turner and Podger (2003; xiv) find out that the local democracy might tend to favor local elites and the emergence of money politics.

Tiebout (1956) argues that decentralized provision of public goods allows better fulfillment of diverse individual demands. However, the time has changed and his argument is not reality in present time in many developing countries. Brueckner (2000) finds out that local corruption and tax evasion may exist in many developing countries in the present time. Treisman (2000a) finds out that the multi-tiers of government tend to have higher perceived corruption. Treisman (2000b) using TI's Corruption Perception Index (CPI) identified that the federal states are more corrupt than unitary ones. Goldsmith (1999) argues that the federal or decentralized countries are more corruptible because they make it very easier to hide corrupt practices. Fisman and Gatti (2002b) find out that the larger federal transfers are associated with higher rates of conviction for abuse of public office in USA. Fjeldstad (2001) also argues that the fiscal administration in many local authorities is found to be highly corrupted. Kingsbury (2017; 408) argues that the decentralization can provide greater opportunities for patronage and nepotism. World Bank (2004) study finds that decentralization increase opportunities for corruption in developing countries.

The process of decentralization is a means to better allocate resources, to devolve administrative responsibility away from a sometimes remote center. It also support to direct political control in the hands of local people (Kingsbury, 2017; 408). However, the impact of decentralization is not always positive and successful.

"During the 1990s it became clear that the normative expectations of decentralization had often exceeded it actual performance. Sub-national deficits, debt, and corruption - an inefficient resource allocation emerged in many countries, in a few cases threatening national fiscal stability (Smoke et. al. 2006:3 cited in Kingsbury 2017; 408).

Huntington (2006) argues that modernization breeds corruption. According to him there are three supporting connections. First, modernization involves a change in the basic values of society. In the traditional time there are no differences between public role and private interest. Corruption is a product of the distinction between public role and private interest which comes with modernization. Second, corruption is a means of assimilating new interest groups into the political systems by irregular means because the system has been unable to adapt sufficiently fast to provide legitimate and acceptable means to create new source of wealth and power during modernization. Thirdly, modernization encourages corruption by the changes on the output side of a political system and it supports to breed corruption in the society.

Generally, the intellectuals who study on the relationships between corruption and decentralization categorize federalism into four types. These are fiscal federalism, political federalism, constitutional federalism and spatial federalism. Freille et. al. (2008)

investigate the empirical relationship between decentralization and corruption. Their study suggests that fiscal or market decentralization is associated with lower corruption and constitutional decentralization is associated with higher corruption. Similarly, political decentralization worsens the positive effect of constitutional centralization on corruption and spatial federalism does not appear to have a strong association with corruption. De Mello and Barenstein (2001) and Fisman and Gatti (2002b) have found that fiscal decentralization is associated with lower level of corruption.

If we review the literature there are numbers of arguments that support to the notion that localization increases to corruption. There is much logic behind it. First is personal interest. Vito Tanzi (1995) finds out that the decentralization always brings officials in close contact with local people and promotes personal interest and reduces professionalism. Personal interest always supports to breed corruption in local level. Second, monitoring will be very weak and vertical controls almost weak. Lower monitoring, vertical controls and supervision may support to increase the motivation for corruption in local level. Third is the political decentralization leads to lack of discipline in the community. Blanchard and Shleifer (2000) argue that the political decentralization is a source of corruption in Russia. Fourth, local government and resources will be captured by interest groups. Some scholars (Prud'homme 1995, Bardhan and Mookherjee (2000) argue this way. They argue that opportunities for corruption increase due to a great influence of interest groups.

### **Decentralization and Corruption in Nepal**

Nepal has a long history of decentralization. Decentralized governance system had been in practice since long time (Lumsali, 2064 B.S.). It had become institutionalized after the promulgation of the Local Self-Governance Act in 1999. Nevertheless, due to political transition, the local governments in Nepal became void of peoples' representatives from July 2002 to May 2017. During this period, the government gave the responsibility of peoples' representatives to the bureaucrats. There had been considerable increase in conditional and unconditional grant to local governments during this period. While there was abundance of rights and resources, corruption got more flourished due to lack of peoples' representatives for the management of that (Upadhyaya and Ghimire 2073 B.S.). The political vacuum created by prolonged absence of elected leaders (2002-2016) has also helped to breed massive corruption and elite capture at the local level (Manandhar, 2018). Meanwhile, the means and resources got more increased when the Constitution of Nepal 2015 was promulgated and the federal governance system was introduced in Nepal. The Annex 8 of the constitution contains list of 22 concurrent powers for local government, the Annex 9 contains jurisdiction for federation province and local level. This is presented in Table 1.

**Table 1**

List of concurrent powers/jurisdiction for federation, province and local government

List of Powers/Jurisdiction for Local Level	List of Concurrent Powers/Jurisdiction for Federation, Province and Local Level
<ul style="list-style-type: none"> <li>• Municipal police</li> <li>• Cooperatives</li> <li>• FM operation</li> <li>• Local tax (property tax, house rent tax, fee on registration of houses and land, vehicle tax), service fee, tourism fee, advertisement tax, business tax, land tax (land revenue), fines, entertainment tax</li> <li>• Management of local services</li> <li>• Local statistics and record keeping</li> <li>• Local development projects and programs</li> <li>• Basic and secondary education</li> <li>• Basic health and sanitation</li> <li>• Management of local markets, environment conservation and biological diversity</li> <li>• Local roads, rural roads, agriculture roads, irrigation</li> <li>• Village assembly, Municipal assembly, district assembly, local courts, dispute settlement and mediation</li> <li>• Management of local records</li> <li>• Distribution of land, building ownership certificates</li> <li>• Farming and livestock, agriculture production management, livestock health, cooperative</li> <li>• Management of senior citizens, people with physical disability and disabled</li> <li>• Collection of statistics of unemployed people</li> <li>• Management, operation and control of agriculture extension</li> </ul>	<ul style="list-style-type: none"> <li>• Cooperatives</li> <li>• Education, Health and Newspapers/Magazines</li> <li>• Health</li> <li>• Agriculture</li> <li>• Services like electricity, drinking water, irrigation</li> <li>• Service fee, registration fee, fine, tourism fee and royalty received from natural resources</li> <li>• Forest, wildlife, birds, water use, environment, ecology and biodiversity</li> <li>• Mines and minerals</li> <li>• Disaster management</li> <li>• Social security and poverty alleviation</li> <li>• Registration of personal incidents, birth, death, marriage and statistics</li> <li>• Archaeology, ancient monuments and museums</li> <li>• Management of landless</li> <li>• Royalty received from natural resources</li> <li>• Permission for vehicles</li> </ul>

- Drinking water, small electricity projects, alternative energy
- Disaster management
- Conservation of Watershed, wetland, wildlife, mines and minerals
- Preservation and development of language, culture and fine arts

Source: Constitution of Nepal 2015

The budget allocation for local level has been increasing in the recent time. This can be clear from the budget of past six years (Refer to Table 2 below). (Note: A chart showing a trend line will have more visual effect than the Table below)

**Table 2**

The condition of budget allocation in the local level

Fiscal Year	Total National Budget (in Rs. 000)	Allocated budget for local level	Allocated Percent
2070/71	5,17,24,00,00	46,54,28,11	9
2071/72	6,28,10,00,00	57,44,46,60	9.30
2072/73	8,19,46,88,84	77,23,93,08	9.43
2073/74	10,48,92,13,54	1,16,73,79,08	11.13
2074/75	12,78,99,48,55	2,25,05,45,91	17.6

Source: Ministry of Finance, Nepal

The table above shows the picture of budget increment over the past five years. In 20170/71, if only nine percent of total budget was allocated to the the local level then in 2074/75 this got increased to 17.6 percent. The budget allocation has double within a span of five years. In 2075/76 a total of 1.315 trillion has been allocated.. This is a substantial amount of budget allocation for the local level. The government of Nepal has allocated Rs. 135.51 billion as equalization grant for FY 2075/76. Out of Value Added Tax and Excise Duty levied on domestic production, GoN has projected revenue sharing grant to be Rs.114.24 billion for provincial and local level governments. This sharing is done on the basis of their population, territory, human development indicators, and infrastructure and expenditure requirement. Similarly, GoN has allocated Rs. 63.14 billion and Rs. 109.85 billion as conditional grants to provinces and local level, respectively. Finally, GoN has allocated Rs. 20 billion to provide complementary grant to provinces and local levels for projects identified by them under their jurisdiction, and to

provide special grant to provinces and local levels to execute activities of special nature for FY 2075/76 (MoF, 2018).

The corruption must have decentralized with the increase in budget allocation for the local level (Upadhyaya and Ghimire 2073 B.S.). There has been considerable increment in the incidences of corruption and financial irregularities with the increase in local budget (Poudel, 2075 B.S.). The budgets for target groups have been misused and there are also instances where budgets have been consumed simply by undertaking “paper works” (Ghimire, 2074 B.S.). The study of CIAA has also shown that there could be irregularities and misuses during policy formulation and budget allocation (CIAA 2074 B.S.). Various studies have shown that there have been duplications in the development works at the local level. For example, the road division, users committee, education office, local entity all makes different bills for the same work (CIAA, 2074 B.S.:22). The cases filed against financial irregularities in the local level are on rise. This is depicted in the Table 3 below.

**Table 3**

The cases filed in the last five years in CIAA.

Fiscal Year	Education	Local Development	Land Administration	Health	Home Administration
2073-74	3974	3042	1341	901	895
2072-73	5671	3659	1582	1242	1189
2071-72	7264	3982	2165	1493	1263
2070-71	2900	1857	1292	768	1010
2069-70	2093	1728	876	664	800

Source: CIAA Annual Reports

The table above provides the clear picture of the cases filed in the CIAA. The largest number of cases is related to the education sector followed by local development sector. Among all the cases filed, 80 percent of all cases are related to education, local development, land administration, health and home administration. The 24<sup>th</sup> Annual Report of the CIAA includes:

...though huge amount of budget is being allocated for the local levels but the monitoring mechanism is not effective...all the budget is not utilized, there have been irregularities. The targeted groups have little or no excess to the development works carried out through the users committees thus leading to corruption by the local elites...during social security allowance distribution, there have been irregularities: the employees are creating false bills and signatures... Similarly, the budget is being

allocated not by formal process but by the aid of political power. So, in most cases, there is duplication in development works. The works do not meet the minimum quality requirements but the certificates of quality assurance are issued by taking bribe (CIAA 2071; vii-viii).

A huge amount in the local bodies has remained as arrears. The Table 4 below shows the total audited amount and pending irregularities.

**Table 4**

The arrears amount in the local entities in the last five years (in thousand)

Year	Total Amount of Audited	Arrears figures			Total	Total arrears percentage
		to be recover	to be regularize	unsettled advances		
2074	1557429	7445	38952	67247	113644	11.99
2073	670626	2552	42013	35783	80348	9.04
2072	401648	2038	24267	46064	72370	14.84
2071	414603	2747	16738	25386	44871	12.00
2070	352829	1930	13901	26537	42368	14.73

Source: Annual Report of OAG

The table above gives a clear picture of the arrears status in the decentralized system. The total amount of arrears has been increasing astoundingly. While the resources have been decentralized, the lack of proper management leads to excessive financial irregularities. The report of the office of Auditor (?) General 2074 B.S. also shows that the financial management in the local level is very weak. The report also includes that lack of criteria and standards in revenue collection in jurisdiction among the local, provincial and federal government has created problems. Similarly, lack of accountability in elected members as well as employees, transparency in procurement and prudential expenditure, the amount in local bodies are not managed well (OAG, 2074 B.S.; 69)

While analyzing the above scenario in a micro level, it seems that federalism has delegated excessive jurisdiction to the local level. (Avoid this line or summarize, as it has already appeared in the text above). Similarly, the resource allocation for local government has also been increased. After the elections, there has been excessive political decentralization in the local level. The peoples' representatives have been handling the local bodies. Along with this, public complaints gunaso against financial irregularities and corruption have also been increasing implying the misuse of public resources.

The federalism has formed 761 theoretically autonomous governments. It seems that the financial activity in these autonomous bodies have invited massive irregularities and corruption. The strong control mechanism has not yet been formed. There are no strong intuitional arrangements for improving the status of internal good governance. This has invited increased corruption in the underdeveloped federal country like Nepal. Though the financial decentralization is expected to minimize corruption to some extent, this could be countervailed by further increase in political, constitutional and regional federalism. According to Wagle (2074 B.s.) (who?) the elections of local government is starting point of corruption in the political federalism.

In most of the cases, the political and constitutional rights are delegated to the lower level in the under developed and developing countries but the strong monitoring mechanism is absent or just stands for formality. This leads to the decentralization of corruption (Widmalm 2008). In case of Nepal, the status of fiscal or market federalism is very weak. Political and constitutional aspects of federalism seen more strong in Nepal (this line is not clear). The prospect of resources mobilization in regional federalism has been neglected. In this way, it seems that theoretical basis of federalism has provided a ground for corruption (Wagle, 2074 B.S.:3).

The constitution of Nepal has made the provision of CIAA for controlling corruption. Though the structure and jurisdiction of investigation is very scattered, distributive and duplicated (this line is not clear). Around half a dozen of government entities have been provided with the right to investigate and adjudicate corruption crimes (Koairala et. al. 2015). The structure of various government entities like National Vigilance Centre, Department of Anti-Money Laundering, and Revenue Investigation Department is not clear yet. Furthermore, the restructuring of CIAA has not yet been finalized. Neither the CIAA has made any solid management for improving the deteriorating status of corruption in a federal set up. The existing watchdog entities are also not keeping their eyes on the local level corruption. . It seems that the decentralization shall lead to increased corruption.

The Local Government Operation Act 2017 has provided jurisdiction of investigation of natural resources and monitoring to local level. The peoples' representatives and officials are themselves involved in exploitation of natural resources. They are personally involved in contract and working as contractor of various development works which has led to conflict of interest. For example, the chair person and vice chairperson of Kerabari Gaupalika are the owners of crusher business. They have been involving in making public decisions in commensurate with their business interest. (Bhattarai 2075 B.S.). Similarly, the people representatives' of Nalgaun Municipality, Jajarkot has purchased an excavator and constructed road. There are

complaints from people on the financial irregularities during the road construction. 50 percent of the total budget in the ward has been allocated for road construction and this road construction was made through the use of excavator owned by the elected representatives (Karki, 2074 B.S.). The representatives in Okhaldhunga also possess their own excavators. The first village council in Manebhanjyang rural municipality has allocated seven crore rupees budget for road construction. Almost all the roads have been constructed with those excavators (Onlinekhabar 2074 B.S., a).

The incidences of involvement of peoples' representatives in corrupt activities are being publicized. The cases filed against corruption in CIAA and NVC have increasing. Those incidences include financial irregularities by elected representatives, corruption by Mayor and Vice-Mayor in connivance with the Users Committees (Sharma, 2075 B.S.). The representatives are not publicizing the running cost of rural municipality; there is duplication in evaluation of works. Similarly, the excavators are used in road construction without rate analysis and payment is not made according to the estimate. There is also irregularity in providing permit to extraction of riverbed materials like sand and boulders. For example, a case has been filed against this in District Administration Office (Okhaldhunga news, 2074 B.S.). Similarly, the vice-chairman and other representatives expressed their agitation against the chairperson of Pakaha Mainpur Rural Municipality of Parsa District. The vice chairperson, Kushmi Devi and other representatives waged movement on 7 September 2018 against the chairperson Bijay Chaurasiya. The chair person along with administration officer were accused of misusing 23 crore 95 lakh rupees (Shah, 2075 B.S.).

At the local level there are instance of corruption while getting approval for building construction. Ward chairpersons from 14 wards of Lalitpur Sub-Metropolitan City submitted (what petition?) to Mayor Chiribabu Maharjan in January 2018 while there had been extensive irregularities. Legally, the employees of Municipality themselves cannot be associated with the consultancies. The news of the employees taking up to 60 thousands bribe money from the clients for granting approval to building constructions. The civil engineering firms are often owned by the employees of the municipality (Mali, 2074 B.S.). Similarly, the investigation committee found that there had been excessive indiscretion in purchasing of winter clothes in Parashuram Municipality in Dadeldhura. There had been corruption of 3 lakh, 20 thousand, 4 hundred and 19 rupees in total purchase of 9 lakh rupees (Malla 2074 B.S.). (I have stopped editing after this end)

Engineer of Kathmandu Metropolitan City, Sushil Chapagain was arrested with 10 thousand bribe on 16 January 2018 by CIAA. He was arrested on the basis of information that he asked for bribe while providing the client with the building

completion certificate (Onlinekhabar 2074 B.S. b). Similarly, Mayor and Deputy Mayor of Itahari Sub-Metropolitan City were arrested on November 2017 for investigation on the information that they purchased electric goods costing 90 lakh rupees against the public procurement act (Annapurna Post 2074 B.S.). There have been intensive corruptions in policy formulation, procurement and expenditure, construction, treasury collection and mobilization among others (Khadka 2074 B.S.).

Decentralization focuses on prioritization of projects on the basis of problems and necessity in the local level and allocating budget accordingly. Whomever, the politicians and peoples' representatives are identifying the projects and allocating budget by regarding their cadres and voters only (Basnet, 2018). Majority of projects are divided politically. The budget of Manthali Municipality has been divided by the representatives. After deducting the running cost, the remaining budget has been divided equally among the political leaders (Pathik, 2074 B.S.).

The events stated above can be the basis to identify the probable sectors in the local level where there can be intensive corruption. Basically, while the financial discipline mechanisms are not being institutionalized, there is enough possibility of misuse of resources in local level. Not only the constitutionalism and political decentralization but also the status of market decentralization is also weak in Nepal which boost for corruption and financial irregularities. The political leaders with constitutional rights have arrived to the local level. The status of market decentralization is very feeble. As a result, the representatives are curtailing themselves and spending the budget as their wish. This has further encouraged for corruption.

While analyzing the events stated above in a micro level, it seems that while resources and rights are decentralized, incapability of fetching strong monitoring and evaluation mechanism in the local level has aided for further corruption. The decentralization in Nepal has promoted personal interest rather than professionalism. There is high risk of local capture by elites in the local level. In developing country like Nepal elites interests dominate and people's participation, transparency and accountability mechanisms are very weak. Similarly, political interference and domination in local affairs is rampant. So, localization or decentralization of corruption is very high. In the same way, local resources are captured by local authorities and elites. Misuse of public resources by public office holders is excessive. It also promote to the rampant bribes and corruption in local level in different sector. People's representatives and officials are also politically biased and randomly divide the budget. Also, they are spending public money in luxuries goods and unproductive sectors.

The entities like CIAA and NVC are still centralized in this changing governance system but there has been decentralization of resources, rights and power. This has

limited these watch dog institutions to keep eye on lower level in an enough manner. There is no formal opposition in local governments. Neither there is strong presence of media and civil society. Rather there has been practice of dividing budget politically in the name of political consciousness which has promoted corruption. The goods and services provided by local level have not been information technology friendly. The manual works have supported for irregularities. Similarly, the entities to which the cases are filed on the irregularities in local government and procedures are very complicated. The mechanism, entities and procedures seem to be excessively centralized while corruption seems to be excessively decentralized. The transparency and accountability has not been promoted in the local level. This has also led to corruption.

### **Conclusion**

The federalism has provided the provincial local level with unrestricted constitutional and political right. The market has not been decentralized accordingly. Hunther and Shah (1998) argue that fiscal decentralization is associated with enhanced quality of governance system, accountability and financial management system. It also contributes to reduced corruption. Similarly, De Mello and Barenstein (2001) also argue that tax decentralization is positively associated with improved quality of governance. However, the fiscal decentralization seems very feeble in Nepal. Because there is the absence of right to proper taxation and freedom to mobilize local resources at the local level, it supports to promote corruption. The competitive market has not established in local level yet which has been endorsing monopoly and non-transparency. Similarly, the political leaders spend extensively to win the election and when they come to power, misuse it excessively to get back the expenditure. Political decentralization creates the lack of discipline in the local level. The political and constitutional rights have given rise to possibility of conceal the corrupt activities.

In the meantime, as said by Vito Tanzi (1995), localization brings officials in close contact with citizens and it promotes personal interest and reduces professionalism. The constitution of Nepal 2015 has provided the local government with specific rights. In the same way, the local government operation act 2017 has also provided enough rights to it. Although, monitoring mechanism and vertical controls system are very weak in Nepal. It shows that the localization process motivates to corrupt behavior among public authorities. The interest groups capture the local resources as said by Prud'homme (1995). According to him, opportunities for corruption increase due to greater influence of interest groups at the local level. In Nepal, there exists unwarranted influence of various interest groups which seems to aid for corruption. In this situation, decentralization can only be effective when agencies and actors at the regional and local levels have developed and capacities to perform effectively the planning, decision making and management functions that are formally granted to them as said by Cheema and Rondinell (1983:299).

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# Federalism: Challenges and Opportunities in Nepal

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## Abstract

It is assumed that the main aspect of the Constitution of Nepal promulgated on September 20, 2015 is the transfer of power from central/federal to the provincial and local government. However, the devolution process has not been satisfactorily experienced as had been expected when it was promulgated by the overwhelming majority of the then Constituent Assembly. One of the reasons for this slow progress might be some confusion and/ or problem in matters of power sharing between different levels of governments. So, the primary objective of the researcher is to review the power sharing modality existing in the new constitution on different sectors and areas of the state machinery. This paper focuses on the federal structure, demography, power sharing between the provincial and local level, opportunities and challenges of federalism in Nepal. It argues that the restructuring initiatives have not been successful in minimizing the political, social, economic, regional and ethnic inequalities that were inherent in the previous political systems for nearly 240 years of a unitary system of governance in Nepal. This paper also explores the implications of Nepal's new Federal Constitution for local governance, fiscal policies, cultural identity and other related issues.

*Key Words:* Constituent Assembly, decentralization, power sharing, heterogeneous society, power structure, fiscal autonomy.

## Introduction

The political system which is based on the federal governance, balanced power sharing, rule of law, values and other governing systems is called federalism. It is a political philosophy in which a group or body of members are bound together with governing representative head. The term "federalism" is used to describe legal and political structures that distribute power territorially within a state. It requires the existence of two distinct levels of government, neither of which is legally or politically subordinate to each other. Its central feature is therefore the notion of shared sovereignty. Examples of federations are, to mention only a few, the United States, Switzerland, Germany, Belgium, Canada, Australia, India, Nigeria and Malaysia. We assume that these nations-states have successfully running federal system.

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Federalism differs from devolution, which is defined as the transfer of power from central government to subordinate regional institutions that have, however, no share in sovereignty. The term "devolution" has been used, for example, for decentralization efforts in Great Britain since the 1970s (Arb and Zimmerman, 2004). Instead, it is a system of government in which power is divided between a national (federal) government and various regional governments. As defined in the Constitution of the United States, federalism is a fundamental aspect of American government, whereby the states are not merely regional representatives of the federal government, but are granted independent powers and responsibilities. With their own legislative branch, executive branch, and judicial branch, states are empowered to pass, enforce, and interpret laws, provided they do not violate the Constitution. This arrangement not only allows state governments to respond directly to the interests of their local populations, but also serves to check the power of the federal government. Whereas the federal government determines foreign policy, with exclusive power to make treaties, declare war, and control imports and exports, the states have exclusive power to ratify the Constitution. Most governmental responsibilities, however, are shared by state and federal governments: both levels are involved in such public policy issues as taxation, business regulation, environmental protection, and civil rights.

The precise extent of state and federal responsibility has always been controversial. Federalism is a political framework that divides power between a central governing body and an assessment of smaller, more local government. The purpose of federalism is to bring government closer to the people and to help them have a more meaningful voice in their own governance. There are 27 countries in the world whose governments are structured on federalist principles, and 40% of the world's population resides in these 27 countries. They account for almost half the territory in the world (Baral, 2008). Often, federalism is considered most appropriate for large countries with a lot of heterogeneity. Ideally, it would allow each different group to mould the local government to their idiosyncratic needs, instead of having to abide by national laws that were not particularly applicable to their specific circumstances.

### **Objectives, Methodology and Data Source**

The overall objective of this article is to analyze the present situation of federalism in Nepal. The specific objective is to describe the social-political aspects, opportunities and challenges of federalism in Nepal. Regarding the above-mentioned objectives, analytical and descriptive methods are applied in this study. In this paper, the descriptive method is applied to obtain information concerning the current status and implications of federalism in Nepal. The purpose of this method is to reveal what exists in federalism with respect to the current situations in Nepal. Similarly, the analytical method is

applied for the analysis of the constitutional and federal phenomena in Nepal. Mostly it involves the secondary data before contemplated change due to the implementation of new constitution in Nepal. The data used in this study are quantitative and descriptive which are collected from the Ministry of Local Affairs, Election Commission, CBS, Ministry of Finance, journal articles, scholarly journals, news papers and reports of international organizations like UNDP and European Union as well as national organizations like subject committees of parliament.

### **Federalism: The Nepali Context**

Federalism as a state structure in Nepal had been bubbling under the surface for a long time. Already in the middle of 20th century, efforts were made by the Madhesi in the south of the country to develop a federalist region. As the decades passed, such demands permeated throughout the country, and seemed to largely have been a reflection of the perceived inequalities between the capital and the countryside. The Maoist insurgency, when it broke out in 1996, included federalism in their 40 point agenda. This seems to have been a Madhesi-influenced move by the Maoists to capitalize on growing discontent to enable a mobilization of armed violence, in particular in rural communities (Bergman, 2011). In 1996, CPN-M employed the concept of 'embedded autonomous' (Evens, 1996) as a strategy for the advantage of the people's war. They declared several autonomous regions like Tharuwan, Tamuwan, Tamang Saling, Kirat and Madesh. These are ethnically and regionally marginalized areas which were raised o conceptualize the autonomous federal states in the country. Despite having been on the Maoist agenda throughout the conflict, the Maoists only started politically pushing for federalism after the Madhesi uprising in 2007. The Madhesi population which resided in the southern parts of the country along the Indian border have strong ties to the regional hegemony. As such, this group has the ability to halt the influx of goods to Kathmandu from India, Nepal's biggest trading partner. This bargaining leverage exerted over the Maoists, however, does not seem to have started the initiative on federalism, but only facilitated its introduction to mainstream politics after the conclusion of the war.

By and large seen as a result of the introduction of federalism into mainstream politics, Nepal signed the International Labor Organization's Convention on Indigenous and Tribal People (ILO 169) in August 2007, being only the second country in all of Asia to do so. ILO 169 emphasizes the important contribution of indigenous peoples to social development and stability, and recognizes that indigenous peoples have the right to “self-determination”. Exactly what “self-determination” means is ambiguous at best, and this has proven to significantly complicate the post-2007 political landscape, since the ratification of this convention has elevated expectations amongst ethnic and indigenous minorities. Activists from the latter often interpret the right to “self-determination” as

equitable to political autonomy and, if necessary, secession. Although the issue of federalism in and of itself is not largely contested, the modality of federalism (i.e. political, ethnic, geographic, linguistic etc) is debatable (Bregman, 2011).

The Interim Constitution was intended to serve as a temporary tool for governance during the two year intervening period until the new constitution could be written and ratified by the Constituent Assembly. As of April 2009, the Interim Constitution had been amended 6 times. Amendments range from changes to technical stipulations, such as the procedure for the resignation of the Prime Minister, to larger themes such as the classification of the state of Nepal from a "fully democratic State" to "Federal Democratic Republican State" (Interim Constitution, 2007). Ideally these amendments would simply have been expressed as provisions in the new Constitution, instead of materializing as amendments to a temporary document. This structural irregularity suggests that the fear among Nepalese is that the Interim Constitution may end up being the "New Constitution."

The Interim Constitution 2007 calls for the formulation of "federal democratic republic" as a method of restructuring the state. Nepal has to choose from different federalist models practiced in different countries of the world: (i) geographically divided federations (e.g. Switzerland, Canada and Russia), (ii) corporate federation (eg Nigeria), (iii) unequal/mixed federation (e.g. Quebec in Canada, Kashmir in India), (iv) confluence federation (e.g. Belgium) and (v) union federation (eg USA, EU) or could develop or adopt a mixed federation suitable for the country. Nepal's model of federalism has to respond to the specificities and needs of the country and should not be influenced by foreign ideologies, however, in view of similarity of culture and experience, Nepal might find the example of India useful (UNDP, 2007, p. 11).

From the above discussions of the models, what we can deduce is that firstly, all the federations are not created through the same process, that is: some federations are created through enlargement or what we call "aggregation process"; while others including Nepal are created through the process of "disaggregation", through devolutionary process. It can be interpreted that it was rather, the internal security threat which can be considered as a cause behind the government of Nepal to adopt federalism as a new political system as it was in the response of various agitating movements, failure of previous democratic government and protests of the people. Federalism which is based on the socio-economic as well as cultural theory developed by Livingston (1956), has more relevance in the context of Nepal, as the area under study has semblance with its theoretical manifestation i.e. it is the plural nature of the society which is territorially concentrated in different pockets of the country which have expressed its demand of federal autonomy through various protests, movements so as to exert pressure on the

government of Nepal for adopting federal restructuring. At last Nepal adapted federalism on its own necessity which can address the diversity i.e. multi-ethnic, multi-lingual, and multi-cultural aspects within the state; balance in development i.e. healthy, sound competitive and proportional development of all the nooks and corners of the country; sharing and transferring the power to the provincial and local level and best mobilization and allocation of the resources for balanced and justifiable development.

### Brief Description of Seven Provinces of Nepal

Article 4 sub article 1 in the part 1 of The Constitution of Nepal (2015) declares that Nepal is a Federal Democratic Republican State. The new constitution of Nepal, adopted on 20 September 2015, provides for the division of the country into 7 federal provinces. These provinces were formed by grouping together the existing districts of Nepal. Two districts, however, are to be split between two provinces. According to Article 295 (2), the provinces shall be named by 2/3 vote of the respective province's legislature. Up to this period, only three provinces declared their names i.e. province 4 - Gandaki Pradesh, province 6 - Karnali Pradesh and province 7 Sudurpashchim Pradesh. The key demographic and economic components population, geographical area, Human Development Index (HDI) and number of household vary in the seven provinces.

**Table 1**

Area, Household, Population density and Population

Provinces	Area (%)	Household	Population density	Population (%)
1	17.60	991750	211	17.12
2	6.56	932087	564	20.40
3	13.79	1269144	754	20.87
4	14.13	578045	153	9.31
5	14.93	915029	208	17.33
6	19.70	267539	79	5.34
7	13.28	469703	1211	9.63

Source: CBS, 2011.

Table no.1 shows that Province 3 has the highest population (20.87 percent) followed by Province 2 (20.40 percent) and Province 1 (17.12 percent) respectively. Provinces 6 and 7 are the least populated states with only 4.82 and 9.63 percent of the total population of the country. The population of Province 3 is 4.33 times higher than that of Province 6 while the population of Province 2 and 3 is almost equal. With regards to HDI, Province 6 has the lowest index followed by Province 7 and 2 respectively. Province 3 and 4 have the highest HDIs. Out of ten districts with the lowest levels of HDI in Nepal, four lie in Province 6 while three lie in Province 7 and Province 2 respectively. The ten districts are: Bajura, Bajhang, Kalikot, Humla, Achham, Rautahat, Mahottari,

Jajarkot, Rolpa and Mugu. Similarly, Province 7 has the lowest level of income, below Province 6 and 5, while Province 3 and 4 have the highest levels of income (Bhatrai, 2017). It indicates that, demographic and human developments of the provinces are not similar and these variables will vary in the future.

Provincial dynamics is very crucial in changing forms of the governing system in Nepal. With the old ways dying and anything new not yet fully formed, what is clear is that the modes of collective decision-making and capabilities of the local and federal governments will not be the same in the future. Provincial structure, geographical location, electoral constituencies, ethnic and linguistic variations, population size, etc. are very diverse in the federal structure of Nepal (See table 2). There are many questions about whether the federal government will focus more on its diverse structural issues and conventional forms of control, or whether it will open up to new ways of working with provincial and local governments. New ways of working patterns with provincial assemblies and local councils are needed which must form the mutual trust between and among governmental bodies and elected representatives (International alert, 2018).

**Table 2**  
Capital, number of districts, electoral constituencies

Province	Capital	Chief Minister	Number of Districts	No. of House of Representative Constituencies	No. of Provincial Constituencies
1	Biratnagar (Temporary)	Sher Dhan Rai	14	28	56
2	Janakpur	Mohammad Lalbabu Raut	8	32	64
3	Hetauda (Temporary)	Dormani Poudel	13	33	66
4 (Gandaki)	Pokhara	Prithivi Subba Gurung	11	18	36
5	Butwal (Temporary)	Shankar Pokhrel	12	26	52
6 (Karnali)	Birendranagar	Mahendranagar	10	12	24
7 (Sudurpachhim)	Godawari	Trilochan Bhatta	11	16	32
Total			77		330

Source: MoLA and Election Commission, 2017

Province 3 has the highest constituencies for house of representative and provincial and province 6 has the lowest. Similarly, province 1 has largest and province 2 has lowest districts. The population, area and other related data on Nawalparasi and

Rukum districts have been divided into 50-50 in the provinces they fall in. Similarly, the distribution of economic resources is the most debatable issues in the formulation of federal government in Nepal. With regards to central revenue collection figures, Province 3 contributes the highest share followed by Province 2, 5 and 1. Currently more than 80 percent of the revenue headings come under the jurisdiction of the federal/ government. But Province 4, 6 and 7 would not be economically viable even if the revenue was to go directly to the provinces instead of the central government. In terms of revenue sharing and local taxation, Province 4 seems to be in a relatively better position. In conclusion, even though the seven provinces are asymmetrical in nature, Province 6 and 7 consistently rank the lowest in all the variables.

(Source: <http://www.catchnews.com/world-news/nepal>). It shows the general figures of the economic situations of provinces but it is the vague and more researchable topics in Nepal.

### **Power Structure and Sharing of State**

The main structure of the Federal Democratic Republic of Nepal has three levels, namely the Federation, the State and the Local level. The Federation, State and Local levels have to exercise the power of State of Nepal pursuant to this Constitution and law. According to the Constitution of Nepal (2015), (a) there shall be States consisting of the Districts as mentioned in Schedule-4 existing in Nepal at the time of commencement of this Constitution. (b) There shall be Village Institutions, Municipalities and District Assemblies under the Local level. The number of Wards in a Village Institution and Municipality shall be as provided for in the Federal law. (c) Any Special, Protected or Autonomous Region can be set by the Federal law for social, cultural protection or economic development. (d) The Federation, State and Local levels shall protect Nepal's freedom, sovereignty, territorial integrity, independence, national interest, overall development, multi-party, competitive, democratic, republican, federal system of governance, human rights and fundamental rights, rule of law, separation of powers and check and balance, egalitarian society based on pluralism and equality, inclusive representation and identity.

Similarly, according to the constitution (2015), the distribution of State power is mentioned on the following points: (1) The powers of the Federation shall be vested in the matters enumerated in Schedule-5, and such powers shall be exercised pursuant to this Constitution and the Federal law. (2) The powers of a State shall be vested in matters enumerated in Schedule-6, and such powers shall be exercised pursuant to this Constitution and the State law. (3) The concurrent powers of the Federation and the State shall be vested in matters enumerated in Schedule-7, and such powers shall be exercised pursuant to this Constitution, the Federal law and the State law. (4) The powers of the

Local level shall be vested in matters enumerated in Schedule-8, and such powers shall be exercised pursuant to this Constitution and the law made by the Village Assembly or Municipal Assembly. (5) The concurrent powers of the Federation, State and Local levels shall be vested in the matters enumerated in Schedule-9, and such powers shall be exercised pursuant to this Constitution, the Federal law, the State law and the law made by the Village Assembly or Municipal Assembly. (6) Any law to be made by the State Assembly, Village Assembly or Municipal Assembly pursuant to clause (3) or (5) shall be so made as not to be inconsistent with the Federal law, and any law made by the State Assembly, Village Assembly or Municipal Assembly which is inconsistent with the Federal law shall be invalid to the extent of such inconsistency. (7) Any law to be made by the Village Assembly or Municipal Assembly pursuant to clause (5) shall be so made as not to be inconsistent with the State law, and any law made by the Village Assembly or Municipal Assembly which is inconsistent with the State law shall be invalid to the extent of such inconsistency.

### **Challenges of Federalism**

Nepal is an underdeveloped country with diverse geography, ethnic groups, linguistic groups and various political parties. Poverty, regional imbalance, improper infrastructure and unemployment remain Nepal's major problems. The idea of federal structure emerged as a political agenda against unitary system after the success of people's movement in 2006. From the experiences of other federal countries, provinces demand the additional expenditure as they face new challenges (Subedi, 2018), which are also for the newly formed federal government of Nepal. Some of the challenges are listed on following points:

1. Meeting additional parliamentary, administrative and bureaucratic expenses is a new challenge in Nepal. The inadequate number of civil servants with low technical skill and minimum logistic support are other constraints.
2. Distribution of resources among the states can be another daunting issue for the federal management. The new constitution has envisioned equitable distribution of benefits derived from the use of natural resources (or development) by federal (central), state and local levels. Proper distribution and allocation of natural resources like river, forest, mines etc. between the federal states is one of the major problems of federalism. It also creates the problems of disaster management, plans, policies, and guidelines to mitigate these problems.
3. There is also a practical problem in the creation of ethnically and linguistically homogenous regions, which is very relevant for Nepal. Ethnic and linguistic homogeneity is hardly possible in any territory in multi-ethnic states, due to the

diversity and mixture of peoples across ethnic boundaries. Therefore, new minorities are likely to be created within the subunits, who are in danger of being victimized, intentionally or not (Adeney 2000)

4. Tax burden and duplication is another potential problem in which local governments and the federal states may decide on different tax rates between the local municipalities and states, and between commodities and services within states. In both cases people may adjust to these tax differences by moving economic activities to other states, or between sectors within states.
5. Vertical intergovernmental relations will demand more time until provincial and federal governments are elected. However, horizontal relations establishment process may have to be initiated immediately even if support of vertical (especially central) authorities will remain inadequate (Dhungel, 2017). Out of these challenges, there are other vital challenges of the federal structure and its implementation processes in Nepal. Some of them are: territorial debate of provincial and local bodies, use of natural resources, duplication of revenue and tax burden, ethnic and Madhes issues, neighboring countries perception on federalism, debates on foreign policies, educational policies etc. But these all challenges can be solved by making consensus among the provinces and by changing the attitudes of leaders as well as general people of Nepal

### **Opportunities of Federalism**

As unitary system failed to deliver equality among the people, it has been felt that unitary system existed in confrontation with the democratic values. Unitary system also failed to mobilize the resources for the balanced development. So, to protect and well utilize these resources, there is important role of local government and local people which can be effective in federal system. Federal system of governance can facilitate the nation with higher economic growth by formulating and implementing proper policies. Potential exists in the form of conventional sectors such as hydropower, agriculture, tourism and hospitality, forestry and herbal, minerals along with crime, health and education services being the newer ones. From the experiences and practices of federal government system of the world, there are lots of opportunities in the context of Nepal. Some of them are listed on following points:

#### **Ensure the Local Effective Governance**

In the federal context, some functions such as secondary education, health, agriculture and other local services have been assigned to the local bodies with the basic principle that functions should be assigned to the lowest level of government. There are numerous advantages of democratically-elected local governments. Some of the

advantages include improved governance, enhanced development and citizen's participation. In addition, it also has several other benefits such as increased legitimacy, effectiveness in overseeing public expenditures, improved services, engaged public for democratic governance, among others. Federalism ensures division of power clearly stated in the constitution. In the context of local governance, it has some advantages which are: 1. It ensures that government remains close to the people as they are more in tune with the daily needs and aspirations of people from small and isolated places. 2. It encourages development of the nation in a decentralized and regional manner and allows for unique and innovative methods for tackling social, economic and political problems. 3. It provides a barrier to the dominance of the majority. Under the federal system, if the state government is found to be ineffective and unsuccessful or when national emergency is declared, the federal government controls and directs the respective states until another appropriate arrangement is made (Local Governance Act, 2074).

### **Social Inclusion and Pluralism**

Inclusivity and democratic pluralism are two major conceptual as well as institutional devices created under the federal governance structure in order to mitigate discrimination and ensure 'unity in diversity', one of the core values of multi order government system. It ensures increasing participation of women from all caste groups was observed at the recently conducted local level elections. It also guarantees the minimum representation of other marginalized or minority groups are made at the local executive and legislature in the form of quota system.

### **Fiscal Autonomy**

Extensive fiscal autonomy and resource mobilization and management responsibilities are entrusted to the local bodies by the Constitution. Building administrative capacity and skills of planning and managing budget will continue to remain a challenge for the local leadership. It ensures the local and federal governments fiscal capacities and self dependent economy.

### **Reduced Conflict**

Federal system of government represents the unified government of people which reduces gap between people and leader as well as people and government. It helps to access the equal use of means and resources which reduces the conflict at local, regional and national level.

### **More Responsiveness towards Citizen**

The local and provincial governments can be more responsive to the needs of citizen. A government entity is to its citizens; the more likely it is to respond to the needs of citizens, the more likely are the states to listen to citizen needs.

## Equal Development

One of the main objectives of the federal system is to develop equally and as per equitable manner to the grassroots level. Nepalese constitution has assumed that all sectors would be developed with the participation of local people at all spheres of the development (Basnet, 2017). The concept of equitable development is based on the constitution which focuses on the gender, region, class, ethnicity, caste and other aspects of the society.

## Conclusion

The major objective of federalism in Nepal is to eliminate disparities caused by class, caste, ethnicity, language, religion, region and gender. However, while federalism can be a mechanism for eliminating some disparities caused by socio-cultural variables, it does not ensure inclusion or democracy. The constitution of Nepal be required to facilitate a deep-rooted and inclusive democracy where all minorities are protected. Irrespective of the final partition, there will be a number of ethnic minorities within all federal states. A thriving and inclusive local democracy is necessary to secure the interests of all local people or local minority groups and not only the local elites. Furthermore, the constitution and practices should secure the interests of groups defined along non-ethnic cleavages such as class, caste, urban/rural and religion. To the possible extent, each federal state must be established as an economic center (Aalen & Magnus, 2002). The federal government must ensure the rights of people and should guarantee the security and prosperity of the country.

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# Role of Youth in Strengthening Parliamentary Federal Democracy in Nepal

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## Abstract

Politics has become a frustrating social activity for many young people. However, there is no escape from it: the only choice in democratic society is between “good” politics and “bad” politics. The performance of “independent” media, our cultural and social norms, some constitutional provisions, liberalism and cynicism are among those principal factors that are responsible for the alienation of you from politics. Federal structure, in the meantime, has encouraged the youth to engage in politics. In a federal-democratic society, youth needs to possess critical and deliberative mind to make politics meaningful and productive. This paper explores the roles youth can play in strengthening federal democracy in Nepal.

*Key words:* Democracy, federalism, constitution, participation, socialization, liberalism, critical mind.

## Introduction

With the promulgation of the Constitution of Nepal in 2015 which established Nepal as a federal democratic republic brought about through countless sacrifices, many new aspirations, dreams and hopes have made an upward swing. Ideals such as prosperity, justice, equality, socialism, inclusion and development found important places in the new Constitution (Government of Nepal, 2015, p. 1 & 27). The people became sovereign, the architect of their destiny. Parties and leaders appeared as the sole political actor, with enough power and opportunity to deliver on many good things to the nation and the people. The people, in general, and the youth became much enthusiastic and placed their high hopes on leaders and parties.

But, to our dismay, the nation has not witnessed expected changes for the better. The old problems have remained intact and the new ones have emerged. The hopes of great many people have been dashed, with the dreams of the nation and the people remaining far from materialized. People’s disenchantment with the leaders, parties and governments, and democracy and federalism is growing.

This is the age of democracy. The multiparty system, despite its failure in many parts of the globe, has been publicized in a way the kind of which was unheard of. But a sizable portion of *demos* in many "democratic countries" does not participate in and influence the democratic process.

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The participation of youths in politics even in those countries which claim to have long experiences in democracy stands "dismally low". A report by the International Idea says: "Despite the growth in the global voter population and the number of countries that hold elections, the global average voter turnout has decreased significantly since the early 1990s" (Solijonov, 2016, p. 24).

Many people who participate in politics do so very passively and occasionally as mere voters and, they always find themselves at the receiving end. The qualitative, active and effective participation of citizens, in general, and youths, in particular, has become a rare phenomenon. Even under welfare state, as Habermas has convincingly demonstrated that citizens are converted into passive consumers and client of the state (Habermas, 1984, p. 344-52). As a result, democracy has not become the kind of thing which we had envisioned and struggled for.

With this general concern in mind, this paper argues for a case why youth should realize the importance of politics (section 2); discusses the factors that contribute to the alienation of youth from politics, and consequently, are causing the poor performance of democracy in Nepal (section 3); argues why Nepalese federal structure is conducive to the participation of youth in politics; and discuss the qualities, skills and virtues the youth need to develop to make politics and meaningfully constructive force for a just order and progress? Section 6 sums up the paper.

As per the methodology, this paper is characteristically theoretical and therefore based more on the construction of arguments and counterarguments. It does not draw directly much from primary and secondary data. It, however, makes use of those facts that are mostly incontestable in the public domain, or at the least, widely accepted by academic communities and the public alike. In short, it is an argumentative paper.

### **Why Politics Matters**

"Politics is a dirty game." "Politics is none of my business." "What difference does politics make?" These are the comments which we, more often than not, hear from many of our youths about politics. The comments reflect their perception of, experience with, and observation of, politics. Several factors lie at the bottom of such perceptions and comments, one of them being little understanding of politics, its utility and purposes, and its significance and influence.

Now let's turn our attention to what politics is all about and why it matters. Politics can be defined as the sum of those social processes and activities which are concerned with acquisition, distribution and exercise of social power. The social power is not exercised in vacuum but in society, not in vain but to the purposes. The politics affects all spheres of our personal and public life, directly and indirectly. Take health, for

instance. Health of a person hinges on availability of food, health facilities, environment and his own habits. All these factors are directly or indirectly influenced by the government's policies and their implementation, and, therefore, by politics. Likewise, politics has a bearing on our education, quality of life, economy and even our personal relationship. Politics affects our life whether we do it or not. But it certainly makes difference when we do it, consciously and purposefully.

Yes, of course, "Politics is a dirty game" is what trips off the tongue of most people. Politics has been played dirtily and, this has created frustration in the large chunk of our population, keeping them at bay from it. The point which I want to make here clear is that the remedy lies not in distancing from the politics but in playing it fairly. We do not stop playing football just because some players play it unfairly. The choice is not between "yes politics" and "no politics", the choice is between "dirty politics" and "healthy politics." The fate of any nation or society primarily depends on how politics is done. Therefore, the question is not: Should one engage in politics or not? The question rather is: How can we do healthy politics? How can politics be made a healthy game, a constructive collective effort and a positive force for just order and progressive change? To make politics a healthy game, a constructive force for social order and progress, we must prevent it from going into the hands of stupid, villainous and wicked people. Therefore, good and intelligent people should keep interest and involve in politics.

In democracy, it is the citizens who form, control and run government. The politics and government are on citizens' hand. If government is site and embodiment of demo's legitimate power, theoretically, it cannot be conceived as the means of suppression but an instrument by which to regulate and coordinate the actions of citizens toward achieving the defined goals and translating social and political ideals into a living reality. The principle "of the people, by the people and for the people" (Lincoln, 1863) stands meaningful only when all citizens participate in the political process consciously, and in the capacity of real actors. Whereas, in undemocratic system, a small section of the society, often known as elite, runs government, therefore, citizens, at large, are not required to do politics. In those societies, politics is something to be done by the elite on the people. The people do not have active and conscious role. But democracy requires all the citizens to participate in politics which only, in turn, can ensure democratization of the state and society.

Freedom and equality are the hallmarks of democracy, worth striving for. The future of freedom and equality, their possibility of being transformed into a living reality, largely, depends on what kind of government we constitute-democratic or non-democratic. Long ago in 340 BC, Aristotle rightly put: "If liberty and equality, as is

thought by some, are chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost” (Aristotle, 1992).

Some people highlight the importance of technical and professional education to youths for the development of nation. But they, at the same time, forget that advancement of science and technology is impossible without the committed, dedicated, intelligent and visionary leadership. I argue that a nation can solve her problems and progress only when she has good leaders in power. Therefore, it stands to reason to say that a good deal of intelligent people should be in political leadership.

However, the demand for de-politicization of schools and school children is also popular.. It is argued that youths and students should be kept away from politics, education should be freed of politics, and development should be set apart from politics. These arguments reflect their gross misunderstanding about politics and government. They perceive politics as inherently bad, antagonistic to development and progress of a person and nation and as a barrier to study. These are the seriously mistaken ideas. As a matter of fact, education, development, freedom, all these are political agenda. There is no denying that our politics and governments have performed far less satisfactory than, and even contrary to, the expectations of people. But remedy lies not in keeping youths away from politics but in encouraging them in healthy and constructive politics. This is the only way to fight the evils of politics and to make it a positive force for just order and progressive change. Edmund Burke is worth quoting here: "The only thing necessary for the triumph of evil is for good men to do nothing” (Edmund Burke, 1780).

In democratic society, every citizen has a role in the capacity of an actor. Here, we are concerned with the participation and role of youths in politics. Why youths? The history is the witness to the fact that youths have played the most decisive role in many political movements and revolutions. The youth have demonstrated their discontents with the rotten ideas and system and have always stood for ideals and changes, now progressive, now revolutionary. The youth with its vitality and thirst for newness and change have played a powerful and decisive role in the making of human history here and there. The Nepali youths are not exception to this. In our history, youths constituted the strength and vitality of all movements and organizations. The role played by some portion of our youth population in different times of our history deserves appreciation and respect. But some of the youths have remained passive, while more others have been used as reactionary forces to impede the changes in society. A good deal of our contemporary youths have suffered from these syndromes and failed to emerge as a powerful agent of social change.

Let me point out some problems with the contemporary youth. Firstly, a chunk of our youth population is not interested in grave political, social and national issues. They

perceive politics as a dirty game and keep away from it. Despite being educated, this portion has failed to understand politics and its importance in the life of a person and a nation.

Secondly, the other section which consists of educated and uneducated youths is actively engaged in politics. Whether in peaceful democratic movement or rebellion, youths have formed the major basis of strength. But, the problem with them is that they have not participated in politics as actor and master. They are very keen in obeying orders of their leaders in the name of discipline and hardly dare to question their leaders, however stupid and undemocratic their ideas and actions may be. They have usually, though not always, acted as blind supporters of their leaders and the party. Hardly have they acted as informed, wakeful, equal, dignified and responsible member in their party. They are good at toeing the line of their leaders without any serious look into it. Many of them are not acquainted with what they have borrowed or accepted. Something is there, they accept it but they don't know what it is. The discussion and examination are a far-off thing. They became the objects of manipulation, mobilization and use at the hands of others. As a result, the youths have, at least, not yet been able to prevent the deterioration of the parties which were developed with their hard work, toil, blood and sacrifice. They have become a mere spectator, borrower and follower—the qualities which are suitable only to autocratic system. In critical and important moments of our national life, they have failed to act responsibly and effectively and have demonstrated their inability to exert powerful and significant influence. This holds true of the majority of youths in our political parties. However, it is plausible to hold that there are some youths who, despite possessing fundamental qualities required for good leadership, have not been able to come to the front and take the lead because their wavelength does not match with that of the majority in the party.

### **Barriers to Politicization of Youth**

As we have already discussed, the future of democracy depends on the kind of politics done in the country. The nation which does not assign active role to youths loses the base and vitality of its life. Emphasizing the importance of youth in society in general, Kofi Annan remarks: "... no one is born a good citizen; no nation is born a democracy. Rather, both are processes that continue to evolve over a lifetime. Young people must be included from birth. A society that cuts itself off from its youth severs its lifeline; it is condemned to bleed to death" (Annan, 1998).<sup>1</sup>

The wisdom lies in involving the youth in constructive politics and not in keeping them away from it. It is important to identify those factors which have contributed to the de-politicization of youths. Some of the factors are discussed below.

## Performance of Parties, Leaders and Governments

In order to understand the alienation of a good deal of youths from politics, we need to examine the performance of parties, leaders, government. A gloomy picture of our recent federal democratic experience is that the performance of the leaders, parties and governments has not adequately triggered the enthusiasm of youth in favor of active political engagement. That politics is a dirty game, a game of tricks, conspiracy and treachery intended mainly for the self-aggrandizement has made home in their mind. For them, politics means the tricks played by politicians against their rivals within and between the parties in order to rise up and secure their position. Most of the time and energy were and are wasted in plotting and conspiring against each other. One can scarcely see the leaders discussing important and far-reaching social, national and international issues. The *inter* and *intra* party rivalry form the major subject matters of speeches, writings and discourse. Though “development” has occupied almost all political and governmental discourse, highly important development-related issues such as land reforms, industrialization, education, capital accumulation etc. rarely found their place in the same. The parties, leaders and governments have yet to effect significant changes in the country. The dreams and aspirations of the people do not seem to be materializing. Many new problems are adding up to an alarming scale and intensity. The youths with new dreams, aspirations and enthusiasm is unable to perceive politics as collective efforts to materialize their dreams. In this way, parties failed not only in attracting new youths but also in maintaining faiths and trust of their youths on them.

The parties systematically discourage free and open discussion and the leaders do not entertain questions. They want the cadres to accept their decisions without question, obey their orders and become submissive to them. The democratic political culture has not taken roots and flourished, as a result of which parties are losing their vitality and democratic character. The leaders and parties have not demonstrated and proved rationality of their ideas and decisions in many issues. The performance of parties and different organs of the state is falling far below our expectations, and, in most cases, are contradictory to democratic principles and standards. These things erode hopes and faith placed on parties and leaders. The youths who were and are enthusiastic and hopeful in the new political system, are increasingly being skeptical. In a nutshell, the increasing failure and inability of our parties, leaders and governments to make politics a positive and constructive force, to bring about expected changes, to keep alive the faith and hope of the people and to show good performance is largely responsible for repelling youth from politics.

### Media

In this age of ours, media has emerged as very powerful agent of socialization. It has even been demonstrated how socialization in the age of ours is the effect of media (Genner and Suss, 2016). In addition to this, in democratic society media has a share in

governance and therefore is recognized as *The Fourth Estate*. Normatively, it is expected to play a vital role in promoting democratic values, educating and informing citizens, facilitating and carrying out free and open public debates, raising the concerns and consciousness of people in social, national and constitutional issues. In the last few decades, media has grown in quantity as evident in the numbers of TV, radio, print and online media but its corresponding qualitative growth compatible with normative demand of democracy and constitutionalism is still far below the satisfactory level. The performance of media needs to be examined.

The Nepalese media have given little importance and place to such themes that could be conducive to transforming our young generation into informed, wakeful and responsible citizenry such as issues of economics, regional and global cooperation, environments and ecology. A sizable section of literate and educated youths is lost in trivial, frivolous and even harmful things because by giving much importance and value to these things, media have shaped their likings. The media have done very little to attract the attention of youths and raise their concern on serious and weighty social and political issues that matters locally, nationally and globally.

Most of the political converge and news consists of rivalry and antagonism between leaders, and parties. The media cover such rivalry and unhealthy contentions as if they were what constitute politics. The news and coverage are about those leaders who are mostly in power. They always put "big" leaders in their priority. Hardly has media done anything to promote capable, intelligent and honest individuals of the parties. Therefore, the people, in general, and party members, in particular, are less likely to know that political alternatives exist for them.

Our media have done very little to promote social sciences. A research shows that social science finds very little space and importance in media (Prasai, 2004). The development of social sciences is very conducive to the strengthening of democracy. Social sciences provide us with facts, theories and perspectives about social realities, issues and problems, which help us build our ideas and opinions on a scientific base. Social sciences, in fact, go a long way in contributing a good share to framing policies and plans. They help us resolve "anarchy of opinions" and reach a consensus on issues—which is vital to decision making.

But, there are media that have promoted superstition, dogmatism and fatalistic beliefs by giving considerable space or time to horoscopy and the likes. Some media persons argue that media must take into account the likings and interest of people. But, should media give what youths like or should they help the youths understand what their 'real' needs are? Should the *Fourth Estate* promote scientific consciousness or should

they promote superstition? Should media be not committed to the fundamental principles of democracy and act accordingly?

### **Cultural and Social Barrier**

Some of our habits, customs and practices discourage the youths to be active, thoughtful and conscious members of our society. A man below twenty five is not considered capable of wisdom and reason and is often shrugged off as belonging to *Gadha Pachhisi*. When a boy or a girl criticizes ideas, opinions and viewpoints of elder members of his or her family, teachers and other seniors, the answer they receive is "*Khukuri Bhandra Karda Lagne*." If a youngster disagrees with his or her senior and presents better arguments, he or she is harassed as: Don't be Mr. Know, I have worn out more *bhotos* than you.

Fortunate enough, though such tendency is ingrained in our tradition, it is rapidly fading away. However, despite this, youths are not considered eligible for higher positions in political parties. Therefore, a man and woman of forty assuming leadership position in parties and government is still not conceivable in Nepal.

It is common that teachers, parents and elder members of family do not discuss politics and other national issues with the younger members. Hardly do parents want their children to keep interest in politics. Most of our teachers and parents hold the view that students should not be interested in and do politics. If children and students want to discuss politics, they are told that it is not their business and matter of concern. They warn the children and students that doing politics disturbs and harms their study. Some parents think that their children are not worth talking politics with. As a result, interest and inquisitiveness of our children do not get opportunity to develop.

### **Constitutional and Legal Barrier**

Some of our constitutional and legal provisions, to some extent, are responsible for low participation of youths in politics as active and conscious actor. In our legal provisions, a person is eligible for citizenship at 16, is entitled to voting at 18. But he or she should be 21 to stand in local election and 25 to stand in provincial and federal elections (Government of Nepal, 2016). The incompatibility in these provisions needs examining. A person is eligible to vote means he or she is eligible to elect. He or she is eligible to elect means he or she is capable enough to make judgment and assessment about candidates, parties and policies. But, how is it that a person who possesses abilities and qualities to make such judgments is not eligible for being elected? Such provision of eligibility makes them feel that they are of secondary political importance and that they are not qualified to take on responsibilities for their society and nation. A good deal of this "less" citizens not qualified for being elected to public offices may not feel the strong urge to do politics as actor and master. He or she perceives politics to be done on him or her by others, seniors and elders.

## Liberalism and Cynicism

Liberalism is not a new ideology, but in the last two decades, it has come with such force and frenzy the kind of which was not known and experienced before. Libertarianism, an extreme form of liberalism, following John Locke, gives highest value to individual liberty and rights and views state as the "foremost violator of liberty" (Scott and Marshall, 2009, p. 416). The weakness inherent in liberalism is that it could not envision a democratic state which could create and maintain conditions necessary for the realization of liberty. Moreover, liberalists ignore the importance of society on human life and make too much of individualism. They have gone so far to say that "there are only individuals but no society." The question of priority of society over individual and vice versa is no longer meaningful. As convincingly argued for in sociology, "individual and society are the two aspects of the same reality, and therefore, are inseparable from each other" (MacIver and Page, 1949, p. 43). Liberalism, by emphasizing the individual and ignoring the society, has sowed the seeds of enmity between these two and thereby has given rise to and fueled, now latent and now manifest, antagonism.

Indoctrinated with and guided by liberalism, some of our youths prefer to make individual efforts for the fulfillment of individual interests. This kind of tendency is opposed to the principle of democracy since democratic politics is a process of making collective efforts and action for the collective interests and well-being. Therefore, individual with liberalist indoctrination has little faith on collectivism. He or she believes in "**by oneself for oneself**". The problem is social but he or she seeks personal and individualistic solutions which are extremely limited in their influence and effectiveness. In their individualistic efforts, a few may reach success but the fate of the many people cannot be changed this way.

Some youths have developed cynical tendency and attitudes. Cynics view people's efforts as being guided by selfish motives and intentions. They dismiss that a person can have good and noble intentions in his thoughts and actions and view politics as selfish play even if there are good leaders making good action and producing desired results. Cynicism prevents a person from recognizing and appreciating good deeds of others. It prevents them from working together with others in cooperation and, therefore, from joining democratic and healthy politics.

## Federalism and Motivation for Political Engagement

Despite a variety of barriers which I discussed above, recent political and constitutional development in Nepal, namely, institution of federal structure along with the three tiers of governments has provided opportunity and encouragement to the youth for political engagement. Federal structure has permeated government throughout Nepali

society and thereby, has created opportunity to a significantly larger number of people for political participation. The province and local levels government structure provides platform not only for youth participation at these levels but also opportunity for building of leadership competence for higher level of politics. These levels provide youth opportunity through which political leadership matures. Basically, these levels are more accessible to youths.

At these levels, youths have opportunity to connect politics with their local needs, aspiration, problems and solutions and make politics a local social phenomenon that matters and through which they can make a big difference. This, arguably, is the most beautiful aspect of federalism.

### **Youth, Leadership and Federal Democracy**

The vigor and the vitality, in themselves, are not the positive and constructive forces and can be used and manipulated by others for the fulfillment of their parochial interests and for the destructive purposes if the possessors of these qualities are not conscious of what they are doing and what is being done on them. The mere participation of youths in politics does not make qualitative and desired difference in the present situation. What is needed is the conscious and active participation as actor and master of politics. Therefore, the youths should stop being "active follower", spectator, believer, devotee and "honest and loyal soldier". The new youth should be cautious not to repeat the same mistakes committed before.

The beauty of democracy, I believe, lies not in being the rule with the consent of a majority but in promoting free and open discussions and deliberation. This creates opportunities for several ideas to come to the floor. This kind of democracy requires citizens to possess and develop certain civic qualities. He or she must be informed, studious, open and critical minded, and deliberative. As an open-minded person, he or she should listen to the arguments of others and accept if such arguments are logical and fact-based. As a critical-minded person, he or she should not readily accept but examine ideas and arguments scientifically. He or she should always be prepared to discuss and deliberate any issues and should use reasoning and arguments if he or she wishes to persuade others. But most of our political disputes have been settled through bargaining. The bargaining strategy is undemocratic because free discussions and debates are not keys to agreements. In the bargaining, the decisions are accepted not because the parties are convinced that they are optimal and rational but because of "resources and power relations involved." The "new youth" will have to make the politics and democracy vibrant and lively through free and scientific deliberation which alone can keep the soul of democracy alive.

Democracy, constitution and federal structure of the state are not self-functioning and do not automatically work. The functioning of any democracy depends on the qualities of leaders or political actors. The mal-functioning of our democracy in the past can be attributed to incompetence and inability of the leaders. The nation has suffered much from the lack of quality leadership. The nation is in pressing need of leadership for local and national governments, for different levels of party organization and for different public agencies. The youths can fulfill this need by taking on the leadership responsibility and by building and supporting the competent, visionary, and honest leaders. Only informed, critical and active youths can make and build the kind of leadership our nation needs. Such leaders help the youths develop those qualities which are required of them in democratic system. Only the studious and informed youths can understand the vision and plans of leaders and can participate meaningfully, whole-heartedly and effectively.

Moreover, democracy is not just about individual freedom and choice. Rather, it is about exercising freedom and choice collectively. Individuals cannot exercise their freedom and rights in isolation from each other; they require group or collectivity. Democracy is a system in which individuals' interest are transformed into the collective interests through a rigorous process of political participations. In this sense, in democracy, interests of individuals and society at large do not stand antagonistic to each other. Slightly differently, in a genuine democratic system, individuals, as Marx has pointed out, strive for a society "in which the conditions for the development of each will be the conditions for the development of all" (Marx & Engels, 1848, p. 27).

### **Conclusion**

A sizable portion of youth is increasingly distancing from politic, with hardly any interests in it. The important thing that the youth need to understand is that the remedy lies not in escaping from politics but in doing it in a healthy way. The choice is not between "yes politics" and "no politics" but between "dirty politics" and "healthy politics". Several factors have contributed to de-politicization of youths, chief of which are: (a) performance of parties, leaders and governments; (b) media (c) some of our cultural and social norms and practices; (d) some constitutional and legal provisions; and (e) liberalism and cynicism. Despite these barriers, federalism has brought about a condition which has provided an opportunity to a large number of youth for political engagement in locally, provincially and nationally.

The youths have a very crucial and vibrant role to play in federal democratic system. The vitality of youth is not a positive force in itself, but there exists a danger of it being manipulated and used by others if he or she is not conscious. The youths need to develop some qualities which are required of citizens in democratic society. They need to be studious, thoughtful, critical minded and deliberative to make politics a positive force of change as expected and desired by the people.

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## Aspects of Federalism Implementation for Development and Prosperity

Lal Rapacha \*

### Abstract

In Nepal's context, concepts like 'development' and 'prosperity' are two age-old (suppressive Rana oligarchy, uni-Panchayat regime and its aftermath) mirages chased by rulers for the ruled ones almost seem to be unattainable. Nevertheless, the mirages of 'development' and 'prosperity' can be materialized when one readily changes his/her antediluvian attitude of fatalism (Bista 1991) and low work ethics. In a recent political paradigm shift from unitary monarchism-oligarchy to multi-party federalism, those two mirages have again been reiterated as Nepalese people's dream and discourse (claimed as Oli-vision) in political arena. In our recent practice, federalism is in its infancy and as a form of government may not matter much first about separating or devolution of political power more effectively, avoiding the power concentration and bringing government responsibilities closer to the citizens. In fact, what acutally matters is its action-oriented effective implementation for separating 'development' from 'fatalism' before it turns frequently into a vicious nightmare. Thus, this paper aims to explore some pertinent aspects or preconditions/hindrances of implementing federalism effectivly for achieving the aforesaid goal of 'development' and 'prosperity' within our prevalent general socio-political and bureaucratic trend of 'Balaram syndrome' (a metaphor of ethical degradation of mankind), 'bholi' and 'chiya' syndrome, 'sida-bida' syndrome, nepotism, cronyism, medieval mindset, malpractices of blind capitalism and absence of good governance. In this paper, my main point of departure in methodological tool as such is a closer observation of socio-political trends in Nepalese society and its relevant literature.

*Key words:* Federal, development, prosperity, good governance

### Introduction

Generally, federalism is a form of government in which a constitution distributes powers between a central government and sub-divisional governments, usually called states, provinces, or republics. Lower entities such as

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municipalities, towns, and districts are created by the states (or other sub-divisional governments) and have no sovereign power of their own. ‘Power sharing’ by the national government to the lower levels of government is at the heart of federal system. As a framework of political system of governance, it has its own pros and cons as shown in the following table:

**Table 1**  
Pros and cons of federalism

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Permits diversity and diffusion of power</li> <li>• Local governments can handle local problems better</li> <li>• More access points for political participation</li> <li>• Protects individual rights against concentrated government power</li> <li>• Fosters experimentation and innovation</li> <li>• Suits a large country with a diverse population</li> </ul>	<ul style="list-style-type: none"> <li>• Makes national unity difficult to achieve and maintain</li> <li>• State governments may resist national policies</li> <li>• May permit economic inequality and racial discrimination</li> <li>• Law enforcement and justice are uneven</li> <li>• Smaller units may lack expertise and money</li> <li>• May promote local dominance by special interests</li> </ul>

Actually, the struggle for ‘power sharing’ as envisaged in federalism by the Nepalese people has been continuing till date since 1990 AD and beyond. People’s ultimate sacrifice made it possible for political paradigm shift from unitary monarchism-oligarchy to multi-party federalism (declaration and bill on December 28, 2007 by the Interim Parliament and implementation on May 28, 2008 by the first meeting of the Constituent Assembly) for innovation and fulfilling their aspirations linked to happiness.

### **Federal Dreams, Discourse and Reality**

Federal dreams in essence, means making Nepal advanced, prosperous and strong, rejuvenation of the Nepalese nation-states, and happiness for the Nepalese people (cf. Xi Jinping (2015)). Such dreams these days have become a strong discourse of the ruling party occupying enough space in media in the form of slogan. If the ‘discourse’ is merely for creating truth, morality and meaning as claimed by Michel Foucault, such faking creation of truth, morality and meaning does not materialize the Nepalese people’s federal dreams.

Most of the Chinese think tanks as well as people perceive that Nepal is a bed of gold which has not yet been perceived by the Nepalese people or leadership frontlines. For them, it is a land of high possibility that ensures the Nepalese peoples' aspiration of prosperity and modernization in terms of rejuvenating the Nepalese nation-states and happiness of the people. Many westerners enjoy Nepal as a piece of heaven on earth. And in reality it is so. On the contrary, the people have suffered of perennial inferno due to rampant socio-political and bureaucratic trends of 'Balaram syndrome' (a metaphor of ethical degradation of mankind), 'bholi' (tomorrow) and 'chiya' (tea) syndrome, 'sida-bida' (alm-off-days) syndrome, nepotism, cronyism (*aphno manche* in Bista's (1991) terminology), medieval mindset, malpractices of blind capitalism and absence of good governance.

### **Who is to Materialize the Dreams ?**

In fact, what went wrong for ages and ages for not being able to achieve some standards like Asian Standard or any other modern World Standards as dreamt by the past monarchs or by leaders at present in Nepal? Who is that divine agent to work for materializing such 'development' and 'prosperity'? One needs to be clear here that—is it 'the Nepalese people's dream?' or 'the rulers' dream?' Obviously, such prosperity fiasco's root causes lie in the leaders and bureaucrats, who fully depend on taxpayers' money. Bista (1991), a senior socio-anthropologist in his seminal work *Fatalism and Development: Nepal's Struggle for Modernization* observes that eight principal attitudes or psyche like (i) caste hierarchy (high-low, touchable-untouchable), (ii) medieval socialization and education, (iii) fatalism (dependency on god and fate), (iv) discrimination (caste, gender, language etc. Box 3), (v) *chaakari* (sycophancy of every sort for taking unnecessary advantages), (vi) *aphno manchhe* (nepotism and cronyism), (vii) no hard working and (viii) exclusion (exclude those who do not belong to high caste, socio-linguistic groups in state power and meaningful participation) of indigenous nationalities lots are important factors to consider for not being able to materialize the Nepalese people's dreams; whereas the leaders and bureaucrats have abundance of resources fulfilling their dreams from taxpayers' money to enjoy their lives and also for their future generations. All power games have proved that terms like 'development' and 'prosperity' are faking satanic verses of power gamblers. Therefore, unless and until the Nepal administration enjoys employing good quality Human Resources (HRs) in all spheres of social, political, academic, and economic affairs, the common citizens' dreams of

‘development’ and ‘prosperity’ for sure will hardly be materialized. Here, it is thus essential to explore some of such pertinent factors why this is so for ages.

### Good Quality HRs

In order to reverse Bista’s observation mentioned above and the implementation of federalism effectively for materializing the common people’s dream of prosperity and happiness, there is no alternative of a good quality HRs with ultimate virtues (see Table 2) in three major areas like education, politics, and bureaucracy.

**Table 2**

Vices and virtues guiding human values

7 deadly vices	7 cardinal virtues
1 Pride 2 Covet 3 Wrath 4 Envy 5 Sloth 6 Glut 7 Lechery 8 <sup>th</sup> deadly sin environmental degradation	1 Faith } from Greek 2 Hope } philosophy & 3 Charity } New Testament 4 Justice } 5 Prudence } natural 6 Temperance } virtues 7 Fortitude }

Table 2 clandestinely presents 7 antediluvian vices on the left hand-side and when people are blindly inclined to such deadly vices, ‘Balaram syndrome’ starts ruling the moral as well as ethical human values. To explain simply ‘Balaram’ is a rustic livestock tending character famous in the Nepalese local-folk song “...*garnai gareu Balaram khanti dudkhama pani halera...*” (Balaram messed everything by mixing up water in pure milk) characterizing moral-ethical degradation and idolizing their own leaders since such vices are learnt from the society’s leadership frontlines. As a whole, he symbolizes the deterioration of 7 cardinal virtues in mankind on the right hand-side. It is now spreading negative messages amongst most of the common villagers also that malpractice is necessary to accumulate capital blindly as most of the Nepalese political leadership are doing. This is a case of blind capitalism and emanates from one of the vices known as covetousness. Explicitly, such HRs can hardly contribute to the society and nation-states. So, there is a rare chance of ‘development’ and ‘prosperity’ for the Nepalese people’s happiness.

Another very frequently imposed vice in and around Nepal's education, politics, and bureaucracy system in citizens' daily life is sloth or sluggishness, which is expressed through 'bholi' (tomorrow) and 'chiya' (tea) syndrome. This implies lingering for bribe taking and often committing corruption. Xi Jinping (2015) in his speech and writing asserts that "through hard work, all things are possible." The Chinese people and leaders have proved it to be so. However, hard work according to Bista (1991: 79-80) in Nepal's context is, "At a popular level, even amongst illiterate people, any kind of work is equated with pain (*dukkha*) and people consider it an act of wisdom to avoid work. The opposite of *dukkha* is *sukkha* (bliss) which means living without having to work. People who can live without having to work are considered fortunate. As a career objective in modern Nepal, every Nepalese tries to have a Jagir, a salaried job where one does not have to work but will receive a pay cheque at the end of each month. Candidates still show their zeal and enthusiasm for work at the time of applying for the job, because that is the rule one has to follow. But in such jobs one is not expected to actually work." This sort of trend or attitude is antithesis of Xi Jinping and the Chinese people means federal dreams defer.

For governance of China, Xi emphasises on three main actions like (i) creating a knowledge-based society, (ii) lighting the lamp of wisdom (based on the Chinese philosophers like Confucius and Mencius), and (iii) eliminating corruption (Jones 2015). His meaning of 'lighting the lamp of wisdom' in Nepal's present context is intensifying of seven cardinal virtues in our citizens possible through good governance in education, politics and in bureaucracy too. It prepares citizens to stand morally strong in any modern knowledge-based society and nation-states.

When citizens of any nation are strong morally, 'sida-bida' and another fatal syndrome of nepotism or cronyism (in Bista's (1991) term *aaphno manchhe*) automatically decreases respecting 'equitable and inclusive' pillar of good governance of Nepal with full of happiness on citizens' face and in heart. The two Nepali terms *sida* (alm) and *bida* (holiday) come from a Nepali proverb, "*Bahunlai sida ra masterlai bida pyaro hunchha*" (a priest prefers alm<sup>1</sup>; whereas a teacher holiday) very popular in present day Myagdi district, where I had empirically noted this proverb for the first time while leading an academic

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<sup>1</sup> Bista (1991: 81) explains that 'charity' is not valued under Hinduism—charity being strongly distinguished from giving alms to the holy. ...When a priest receives a gift, he never thanks the giver. It is the giver, the client, who should be thanking the priest for accepting it, for in accepting it the priest bestows spiritual merit on the giver.

institution in the district during teacher education series sessions. Not only teachers but bureaucrats and politicians including the general public also love too much holidays in Nepal. To assert it as a matter of proof, many campaigners in social media recently protested the present government's decision to cut off public holidays on indigenous nationalities' cultural holidays. Instead of being equal and treating them equally by cutting off Dashain and Tihar holidays, the government in a way has demonstrated disparity on the favour of elitist rulers' religion and culture.

Thus, when many sections of society along with teachers love holidays (pay without work), what will our learners learn to love? Learning through hard perseverance or easy holidays wasting life in vain on smart phones and tablets misusing social media? Here, let me reiterate the Chinese saying about teacher,

“When teachers fly  
Students start running  
When teachers run  
Students start walking  
When teachers walk  
Students start sitting  
When teachers sit  
Students sleep and die.” (My trans.)

Nepal's condition in most of the community or government funded schools is that teachers quite often want to “sit” outside the classroom basking the sun-shine or want to enjoy so many *bidas* (holidays). This is how students either go missing from the classroom or are hijacked by private English medium boarding schools. Then, the government policy of free education till high school level is mocked by government itself while charging tax on education for the children studying in private schools.

Furthermore, teachers themselves first prioritize to participate in teachers' union activities and carry the flags (even unfurl on their house roof-top) of political parties to assure their Jagir (a pay cheque without any hard work) in Bista's (1991: 80) term. Xi Jinping recently opined that greedy (‘covet’ in Table 2) people must opt for business rather than taking CPC's membership. Of course, quality HRs in education should be given chances to assume the post of teachers, who are academic professionals having flair for teaching and leading their students towards light rather *aaphno manchhe* sycophancy. Without a mandatory arrangement of one person one post or one professional one profession, the Nepalese citizens' dreams of prosperity and happiness are impossible. Teachers carrying party's flags means only the leaders' dream possible. Like Xi the

Nepalese leaders and teachers must opt for either one or should stop aborting the citizens' dreams.

When teachers want to get pay cheques without teaching well in the classroom based on sound and updated pedagogy, then all other general public including bureaucrats and politicians want their easy pay cheques without any hard work. That is what it is happening in Nepal. All want money without any work—a lesson learnt from their leaders. When one gets an easy pay cheque, there is no worry to go for *dukkha* (pain) as observed by the socio-anthropologist Bista. What they all want is *sukkha* (bliss) without any pain. This *sukkha* applies to the teachers from primary to the university level. No teachers are asked about their teaching quality when so many students fail in their paper-pencil test let alone any simple linguistic, mathematic or scientific skills learning in certain levels what they actually learn from their Jagir-oriented teachers. The only thing is sure that they should get pay cheques at the end of each month. Long live impunity. Rule of thumb gets priority rather than one following the rule of law. Here, another pillar of good governance is broken down. They feel very proud for such breakings.

Those who keenly want to do hard work having calibre and follow the rule of law in all sectors including education are discouraged or even harassed in lack of *aaphno manchhe* (nepotism and cronyism) and support or backing of any sort in any form. The Public Service Commission's (PSC) selection procedure of personnel is based on parroting of principles and facts rather than on practical and applicable hard work in the real field. Quality HRs rarely get selected in such hard working posts. Moreover, PSC's vice (Table 2) cases like question papers leak for *aaphno manchhe* or a *Bhinaju* (elder sister's husband) checking his *Sali's* (wife's younger sister) answer sheets are quite common. The Supreme Court's Chief Justice case not long ago has proved that there are billions of such malpractices to be unearthed mainly robbing the common Nepalese citizens' modernization, prosperity and happiness dreams.

### **Will AID Materialize the Dreams?**

Nepal was open to the outer world since 1950 and started getting international attention and support from around that year or so. The answer to the question (Will AID materialize the dreams?) of this section or of this paper is a big 'No', when the bureaucrats/administrators as well as rulers or HRs of any sector avoid their behaviour known as *Chakari* 'sycophancy' in Bista's (1991: 5) observation, "*Chakari* behaviour is often the lifetime occupation of the adult, though the rewards can be great. By practising *chakari* over several generations a

particular family may even be able to raise its class or caste status. *Chakari* has to be nourished and requires persistence. The strategy of *chakari* and the concept of productivity in those who practise it are alien to modern economic thought and systems, and can in no way support genuine development. *Chakari* is an indication that Nepal not only needs to learn new things in order to progress, but must also unlearn old things. *Chakari* may not be easy to eradicate, but it needs to be purged if economic success is to be a reality in Nepal.” The same thing applies to the recent political discourse of ‘prosperity’ and ‘happiness’. Will the leaders, administrators, teachers and professionals of every walk of Nepalese lives be free from *chakari*? Are they committed to respect neutrality, equity, and equality to all the citizens of the nation-states each other?

Another problematic area of attitude identified by Bista (ibid.) is of ‘ownership’. He says, “There are many instances of such foreign aid projects never being used because of this problem of ownership. Bridges get built, but the local villagers continue to manage a chasm and ford a stream, because they have always done so and they have no sense of the public ownership of the bridge. Foreign aid has now existed in Nepal for almost forty years, yet this behaviour is still widespread. People lack any sense of either pride or of possession of these projects as they would towards things they built through their own efforts.” By and large, the functioning of foreign aid donors also seems to be true lies in the name of war on poverty as sketched in Figure 1 below.



Figure 1: Foreign AID donor agencies’ war on poverty

Source: Google search 2018

A symbolic representation of poverty alleviation in Figure 1 based on Trickle Down Principle above is a nastier or even dirtier world politics of domination by corrupt power-grabbers, mafia, brokers, agents, and mediators, which is a futile hope of prosperity of the pre-existing and ongoing discourses of the 21st century’s Nepal. An excellent example is of South Korean court sentencing the ex-leader and former President Park Geun-hye in jail for 24 years

and 18 billion won (£ 12 m, \$ 17m) fine for abusing her power and coercion<sup>2</sup> after facing a string of corruption charges can teach one of the best lessons of life to evil characters with full of vices (Table 2) in their hearts and practices. Nonetheless, Nepal's shameless example of Chief Justice (Gopal Prasad Parajuli)<sup>3</sup> of the Supreme Court is a symbolic example of zero justice or justice dying in the Nepalese society. In a society or nation (including seven states), where such felony prevails, no 'development' and 'prosperity' like that of South Korea are possible unless justice prevails by replacing felony as such.

### **Main Barriers of Federal Dreams**

In socio-anthropological observation intertwined with politics, there is something lurking in the Nepalese society and nation-states for not being able to achieve the second or first world standards also known as federal dreams in this paper for happiness is the lack of understanding like that of William Shakespeare's character Cassius persuading to his friend Brutus. He says,

“Why, man he [Caesar] doth bestride the narrow world  
Like a colossus, and we petty men  
Walk under his huge legs, and peep about  
To find ourselves dishonorable graves.  
Men at some time are masters of their fates;  
The fault, dear Brutus, is not in our stars,  
But in ourselves, that we are underlings.”

*(Julius Caesar, Act I, Scene II, L. 135-141)*

Cassius, in fact, is trying to persuade Brutus to stop his friend Caesar from becoming a monarch—an act he thinks is in the best interest of the country. He is arguing that it is not fate, but humans' weak position, that is exploiting them to act against their will. In this paper, many such weaknesses or vices of the leaders and bureaucrats have already been discussed earlier while referencing socio-anthropologist Bista (1991) about fate-fatalism (“stars” in Shakespeare's metaphor) as one of the main barriers of achieving the federal dreams of 'development' and 'prosperity'.

Metaphorically, Cassius here means that sometimes people have to take steps they think they cannot. He does not mean to present fate and human efforts as opposite to each other. He simply urges that one should act when it is time to

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<sup>2</sup> BBC News, 7 April 2018

<sup>3</sup> A series of media reporting about the validity of his date of birth and academic transcripts during February-March 2018

act. If a person gets a chance to change his circumstances, he should go for it. The phrase links the concept of human dignity with efforts a person makes, and not the status he enjoys.<sup>4</sup> By this analogy the main root cause of the Nepalese people’s fate-fatalism according to Bista (ibid.) originates from caste hierarchy (Figure 2)—a concept that entered in Nepal for the first time in the beginning of the Lichhavi era (ibid.), medieval mindset in the process of socialization (mainly in the Hindu caste) and education (in all members of non-caste groups), discrimination on seven parameters (Figure 3) as main barriers of the Nepalese nation’s advancement.

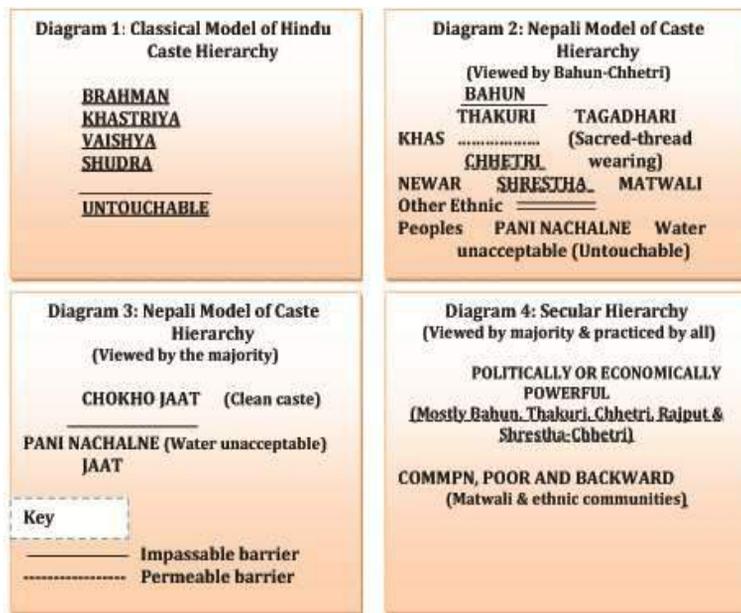


Figure 2: Diagrammatic representations of different views of caste in the Kathmandu valley

Source: Bista (1991: 43)

The question of dependency on fate-fatalism has become of the key components of socialization as well as education all over the nation. As a result, those people having predestined good fate are born in a noble family of high and elite Hindu caste as the rulers’ class, and having no any fates are born as the ruled ones without any access to participation and inclusion in nation-building is a pure case of fatalism. Majority of mono-race ruling is the greatest fault of Nepal’s underdevelopment till date rather than any “stars” as such.

<sup>4</sup> Also in a literal sense, the phrase means that it is not fate, but weakness of the character that forces a person to act against his will. Figuratively, it puts fate and one’s character or position side by side, stressing the second as a dominant force.

The Nepal Caste Pyramid According to the *Muluki Ain* of 1854



Figure 3: *Muluki Ain*'s caste pyramid

Source: Bennett (2006: 6 and 7 also cf. Höfer 2004 [orig. 1974])

To a greater extent, caste hierarchy (Figure 3) plays a dominant role in socialization and education processes, politics, any social spheres, access to resources, participation, connectivity in power, networking, information and so forth. Nepal's oral as well as written pages of history are full of such narratives as part of socialization and education system. Because of such education and training of the rulers' class, discriminations are pervasive on and amongst its citizens on the following seven parametres (Table 3).

**Table 3**

Dimensions of discrimination and exclusion of citizens

Dimensions of exclusions in Nepal

Social Category Status	Gender	Caste	Ethnicity/ Race	Language	Religion	Geo-political
Dominant	Men/Boys	Tagadhari: Brahman, Chhetri	Caucasoid	Indo-Aryan Nepali	Hindu	Parbatiya 'Hill dweller'
Subordinate	Women/Girls	Dalit	Mongoloid Janajati	Other	Non-Hindu	Madhesi 'Plains dweller'

Source: Bennett (2006: 5 and 7)

Citizens at the lowest level of Table 3 are always marginalized or excluded in the name of superiority based on social category and status, caste and ethnicity, anthropological stock, language, religion, geo-politics, and so on. The medieval mind set till date has claimed and practised that the peoples at the lowest

level in the Table above are born for servitude ever. They believe and also by practice till today that the people on the top (Table 3) are rulers by birth or that is written on their forehead (fate~fatalism) on the sixth day of their birth ceremony and deserve to be above the law, malpractise or abuse of power with impunity, and accumulate limitless capital for several generations (Table 2 covet or greed) by applying *bango aunlaa* ('curved finger' as the saying as part of social education goes, *sojho aunlaale ghiu aaudaina*) or by committing corruption limitlessly as part of schooling; whereas the rest must obey the rule of law and be punished even for beef-eating. Due to this trend and tendency of the highest level ranked people grabbing the power, Nepal's position in Corruption Perception Index (CPI) is on the 122nd place with a score of merely 31 points out of 100 reported by TI-N (Transparency International-Nepal).<sup>5</sup> Obviously, because of this stark reality, the federal dreams will probably defer as that of Melamchi Drinking Water Project unless the present government takes action of eliminating corruption like President Xi Jinping (2015) in China.

### The Last Hope on Good Governance

At the moment, what one can maximally expect is the end of impunity and the restoration of rule of law in nation-states of Nepal, which will be the last hope of citizens to attain advancement, prosperity and finally happiness. Therefore, all citizens including the leaders first in all seven states of the Nepalese-nation should strictly stand on and with the eight pillars of good governance (Figure 4) and practise them honestly in day to day life. It is so because 'good governance' is an indeterminate term used in the international development literature to describe how public institutions conduct public affairs and manage public resources. Nepal's case is mainly that of public resources mismanagement and captured by the rulers and elite classes.



Figure 4: Eight pillars of Good Governance

<sup>5</sup> Corruption Index in Nepal averaged 26.50 Points from 2004 until 2017, reaching an all time high of 31 Points in 2013 and a record low of 22 Points in 2010. According to TI-N, political will to make laws, work and take action against corruption is seriously lacking in South Asia.

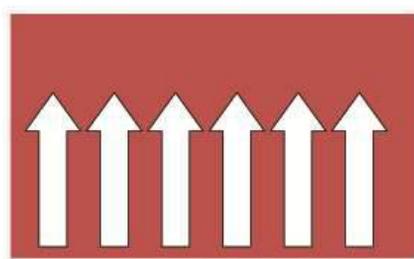
First of all, what counts is the Nepalese leaders' political accountability (also administrative, professional, and democratic accountability) and first and foremost, they must be accountable to their citizens. Accountability ensures actions and decisions taken by public officials (including leaders) are subject to oversight so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community they are meant to be benefiting, thereby contributing to better governance and poverty reduction. It ensures a green signal to prosperity and happiness. Parliaments are key actors in what has been termed the 'chain of accountability'. They are, along with the judiciary, the key institution of horizontal accountability, not only in their own right but also as the institution to which many autonomous accountability institutions report.

They are the vehicle through which political accountability is exercised. Along with civil society organizations and the mass media, they are also important institutions in vertical accountability. Social accountability defined as 'society driven horizontal accountability' seeks to provide direct answerability from government to citizens (but lacking in Nepal's case); parliaments and elected representatives are important vehicles through which citizens and civic groups can also extract enforcement. And—no matter how defined—parliaments are one of the institutions through which diagonal accountability (phenomenon of direct citizen engagement with horizontal accountability institutions while provoking better oversight of state) can be exercised.

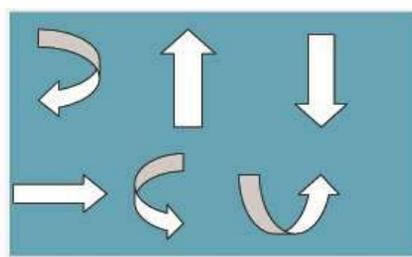
Similarly, transparency (i.e. minimizing and eliminating corruption to improve a shameful contemporary condition of blind capitalism or materialism), responsiveness (i.e. no *bholi* and *chiya* 'lingering' syndrome), equitability and inclusiveness (i.e. no one should be left out on equal basis with justice), effectiveness and efficiency (i.e. no *aaphno manchhe* or nepotism and cronyism), following the rule of law (i.e. no impunity where the top post holders in office should be punished first including people suffered of Balaram syndrome), participation (i.e. letting all work and contribute rather than pay cheque without work) and consensus oriented (i.e. support a decision in the best interest of the whole citizens or nation-states) are equally important foundational pillars supporting for federal dreams of 'prosperity' and 'happiness'. Citizens' or nation-states' immediate need of the hour is to ensure good governance and maximum virtues rather than absurd discourse of development, prosperity and happiness while implementing federalism successfully.

### Delimitation and Promotion

Reversing very bleak malpractices of blind capitalism (wealth or money at the centre so commit any shameful malpractices through vices or unfair means to it for one's sons, daughters or relatives) in Nepal's present federal system implementation, it is urgent and necessary to delimit excessive greed of wealth possession or covetousness (cf. Table 2 covetous and the rest vices including hierarchy or discrimination of any type). Xi Jinping's suggestion, "greedy people should better go to business rather than communist party memberships" (for unnecessary personal gains) is one of the best effective lessons to be learnt. When learnt that much of learning, understanding, and practice by leaders and any general public would ensure the internal or even external retrieval of workforce (including brain-drained ones) in the Nepalese job-market economy rather than any other weaker policies of state control or nationalization of private property. Politicians' 'state craft' mechanisms should excel in promotion of honesty, impartiality, human values in the process of socialization and education in daily life, high degree of virtues in citizens, unidirectional and high work ethics (Figure 5 top). From this day on any leadership frontlines should promote the creation of a knowledge-based society, lighting the lamp of wisdom (based on indigenism virtues), eliminating corruption, and practice of good governance—following the rule of law and accountability as the most important ones in high priority.



**Alignment Dreams: First World**



**Alignment nightmares: Third World**

*Figure 5: Types of work ethics*

Source: after Hall (2008: 96-97)

On the top of diagram (alignment dreams) in Figure 5, we see all the little energy and focus arrows that represent team members heading in the same direction for achieving any targeted goals; whereas the bottom of the diagram (alignment nightmares) is quite contrary. In order to materialize any aforesaid goals, it is wise to prioritize for the team-spirit on the top. The bottom one working style, for ages, has driven Nepal and the Nepalese nowhere but in poverty nightmares and limbo till date. Good work ethics strengthens good governance.

### **Conclusion**

This paper's main argument from anthropo-socio-political, historical and psychological perspectives while implementing federalism effectively is that the faults of underdevelopment, poverty and unhappiness, and backwardness lie more in our talkative leaders' and voters' negative attitude to good work ethics rather than in our fates. As observed by Chinese think tanks or general public or a western traveller, Nepal has immense potentiality for development and prosperity both in natural and human resources. Therefore, one needs to be a doer rather than being a talker. We need holy people letting their helping-hands to each other rather than praying lips or sycophancy alone. For an effective implementation of federalism and taste its tasty fruits (Table 1) for happiness, the leaders and experts at the policy and implementation levels should consider aspects like educating and socializing our citizens in their respective pluralism so that the people can themselves light the lamp of wisdom, create knowledge-based society, and eliminate corruption with hearts full of virtues (Table 2). The foundation of the Nepalese nation-states firmly standing on the eight pillars of good governance (Figure 4) will end all sorts of evils, vices, syndromes, hierarchy (Figures 2-3), discriminations (Table 3) and malpractices of our society inspiring good work ethics in citizens' mind and heart. That is what people's federal dreams of development, prosperity and happiness have to do with at the cost and sacrifice of so many precious lives for political paradigm shifts in Nepal. If necessary strict measures in policy change such as 'hire and fire based on performance' and 'either death penalty or life term jail in the cases of corruption' should be adopted for change, development and prosperity.

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## Critical Appraisal of Governance and Justice: Then and Now in Nepal

Lokindra Hari Bhattarai\*

“Darkness cannot drive out darkness; only light can do that. Hate cannot drive hate; only love can do that. Hate multiplies hate, violence multiplies violence, and toughness multiplies toughness in a descending spiral of destruction.... The chain reaction of evil – hate begetting hate, war producing more wars- must be broken, or we shall be plunged into the dark abyss of annihilation.” Dr. Martin Luther King Jr. (1929-1968)

### Abstract

Governance and justice strengthen systems in order to support security, economic, politics and socio-cultural progress in the country. Nepal since ancient period of Kirats, Lichhavis, Mallas to Shah to Rana period, to Panchayat system to republican democratic state governance and justice make our civilizations more accountable, transparent, inclusive, efficient and participative. Yet they are inadequate for reflecting development and prosperity. Nepal is the first country in the history of Asia to have made the most comprehensive code of law and justice called Manab Nyayasastra (the code of human justice). Also the first country to practice natural justice –jasko pap usko gardan (one who commits crime is liable to face the punishment). Dharma in the past was one of the method to enhance governance and justice whereas the transparency, accountability, management of human, natural, economic and financial resource and equity promote governance in the federal system in the present days. The paper aims at presenting critical appraisal of governance and justice since period of Dharmasastra to modern federal republican state. It highlights with diverse stakeholders involved in education, human rights, equity, inclusion and empowerment initiatives in federal republican state. Dharma was pillar in the past whereas equity, equality, transparency, accountability, rule of law and inclusion are grains of modern concept of governance and justice.

*Key Words:* Governance, justice, codes, Nyayasastra, transparency, constitutionalism.

### Introduction

Though governance and justice play a key role in forming, building, rebuilding and transforming countries into ordered and systematic forms since past to present time, the road of acquiring them is challenging to attain. They masquerade in different forms in

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the development of human civilization. The task of them is to make human civilizations more transparent, accountable, translucent, inclusive, efficient and participative. Modern concepts of using equality, transparency, accountability, disclosure, rule of law, inclusion etc. are making governance and justice more translucent, efficient and participative. Religion and dharma alone is not sufficient to represent governance and justice rather incorporation of transparency, accountability, rule of law and inclusion are the first and foremost ingredients. According to the United Nations Development Programme (UNDP: 1997), the word governance broadly defines as “the exercise of economic, political and administrative authority to manage a country affair at all levels.” Levels of security, economic, politics and socio-cultural progress. It comprises the mechanisms, processes and institutions, through which citizens and groups participate in their interests, exercise their legal rights, meet their obligations and mediate their differences.

In the context of Nepal, since ancient period of Kiratis regimes, the governance and justice laid in dharma or religion which was playing vital role for creating development and prosperity. Of course, governance and justice systems of pre-historic era had deeply rooted in their dharmas (religious belief). All of them including Kirats, and non-Kirats, Lichhavi non Lichhavi, Malla and non Malla ruled the country on the grounds of dharma. Mundhum, the holy scripture of Kirats was a main source of governance and justice of Kiratis. Lichhavi kings were the fountain of justice. Dharmasastra, Rajagya, King"s orders were the ultimate source of administration of the country (Chemjong, I.S.).

After the establishment of United Nation Organization (UNO), the governance is developed in the form of accountability, transparency, rule of law, inclusion, and decentralization. Governance is the exercise of political, economic and administrative authorities that manage a nation’s affairs. Justice enhances social, cultural, political and legal rights for the prosperity and the development of the nation. About good governance (Kofi Annan: 2002) states, “it is perhaps the single most important factor in eradicating poverty and promoting development.” Similarly, Knight, Andy W. (2009) states good governance as “the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development, in the context of a political and institutional environment that upholds human rights, democratic principles and the rule of law. Since time immemorial till days, all of the sectors such as politics, religions, law, anthropology, sociology, economics emphasize governance and justice for change and progress.

The definition of justice in the past was taken as to punish the dishonest and protect the honest. Whereas the inception of justice is as old as the evolution of human civilization. It has been honored as “the supreme principle of all principles” (Burner

E.:1945). The modern jurists and judges define justice as the social values which stand for liberty, opportunity, income and wealth. These should be equally distributed; any unequal distribution has to be justified and inequality should benefit the poorest. By providing equal opportunities to all and benefits to all, society can be made just and impartial. Justice is the response to the poor and needy ones. Some people equate justice with rule of law, moral values like truth, mercy, chastity. Others may emphasize equality as the essence of justice. It is also possible to define justice negatively as absence of discrimination, domination, exploitation and tyranny (Jaya Kumar: 2010).

Justice delivery in the kingdoms and principalities had its own system before the unification of modern Nepal. The diversity in justice delivery system continued even after the unification for a long time. But over the period of time the justice distribution system has been slowly integrated into a centrally administered national judicial system since the promulgation of the Interim Government of Nepal Act, 2007 BS (1951). However, the basic concept of law and justice were guided by Hindu religious scriptures and customary practices of the ancient and medieval history of the kingdom.

In the modern context of Nepal, the governance and justice system can be connected with the development of several constitutions since 2004 BS to 2072 BS. Such constitutional developments describe the significant of constitutionalism that proclaims the desirability of the rule of law, transparency and accountability. The promulgations of constitution in different years as 2004 BS, 2007 BS, 2015 BS, 2019 BS, 2047 BS, 2063 BS and 2072 BS have their own basic features regarding governance and justice. The earliest constitutions of Nepal 2004 BS, 2007 BS, 2015 BS, 2019 BS have failed to adopt the notion of constitutionalism. They have failed not to garner sovereignty to the people rather to provide authority to the Rana rules, the King, and the Panchayat system. Independence of judiciary, rule of law, accountability, separation of power, non-recognition of minority rights, inclusion rights were not institutionalized. People have rights to alter the government. The Interim Constitution 2006 (2063 BS) to some extent address constitutionalism and supremacy of law and justice. All of the constitutions are promulgated to provide governance and justice in one way or another. The constitution of Nepal 2072 has promulgated in order to fulfill the aspirations of governance, justice, development and prosperity. Now the implementation part has to be made more effective for governance and justice

This paper attempts to incorporate dharmashastras for the expansion of Nepalese governance and justice system smoothly for the reflection of the development and prosperity in Federal Nepal. Governance and justice are the key players of forming, constructing, reconstructing and transforming countries into ordered and systematic

forms. In this respect, governance and justice create human civilizations more transparent, accountable, translucent, inclusive, efficient and participative.

### **Meaning and Definition of Governance and Justice**

Etymologically governance is derived from the Greek word “Kyberman”, which means, „steering or pilot or at the helm of things“. The Latin verb “gubernare” is to navigate and like Kyberman, the other forms of word primarily have nautical reference(Hofschneide:2001). The concept of governance is not new rather as old as human civilizations. Early discussions go back to no less than 400 B.C. to “Arthashastra”, a treatise on governance attributed to Kautilya, who presents key pillars of the art of governance, emphasizing on justice, ethics and anti-autocratic tendencies (Kaufmann and Kraay: 2008).

However, governance was almost unknown in English until the last few years of the 20th century. In simple term, governance means the process of decisions making and the process by which decisions are implemented or not implemented. Governance refers to the way a society set and manages the rules that guide policy making and policy implementation (Rijal, 2012). Governance is the exercise of power or authority-political, economic and administrative powers to manage countries resources. Governance encompasses the values, rules, institutions and processes through which people and organizations attempt to work towards common objectives, make decisions, generate authority and legitimacy. Good governance is a synonym to effective governance.

The concept of governance operates at every level, such as household, village, municipality, nation, region or the globe. Harlan Cleveland has used the word governance as „What the people want is less government and more governance.’ According to Cleveland (Rijal: 2012), governance is now everywhere and appears to mean anything and everything. Governance is the structure of political institutions. Governance is the development of social capital, civil society, and high levels of citizen participation. Governance is the work of empowered muscular, risk-taking public entrepreneurs. Governance is inter-jurisdictional cooperation and network management. Governance is globalization and rationalization. Governance is corporate oversight, transparency and accounting standards. Governance is market based approaches to government

Further, Governance is defined by the American Heritage Dictionary (2000) as „the act, process, or power of governing; government“. Governance denotes an overall responsibility for both political and administrative functions. In another way, governance is an art and skill of utilizing political and collective power for the management of society at all levels (from the smallest village to the nation) and in its various aspects- social, economic, and political. The World Bank (1999), ‘governance’ means the manner

in which power is exercised in management of a country's economic and social resources. To OECD, governance is the use of political authority and exercise of power in a society in relation to the management of its resources for social and economic development. The UNDP (2004), some of the characteristics are attributed as rule of law including protection of human rights, responsiveness, consensus orientation, equity, effectiveness, efficiency and strategic vision.

Sir James Mansfield states let justice be done though the heaven fall. The quest of justice has been an ideal which mankind has been aspiring for generations. Modern jurists Rawls (1972) emphasizes an equilibrium concept. As he says equality should be maintained in each and every social order. Now the Nepalese societies run towards enjoyment of achieving autonomy and using optimum equality, equity, inclusion and fairness. Human beings have been wandering in the quest of justice. The development of federal republican state Nepal has exercised all the possible ingredients of governance and justice. The prime and ultimate goal of each and every society is to establish just and valid social order. Several jurists and philosophers have spent their life with utmost effort in putting forward a satisfactory explanation of justice. The children, the disabled and even the cattle maids are found aware of some aspects of justice. The poorest of the poor of the society may feel that justice for them could be a good livelihood. According to Iyer (1983), the state must give primacy to justice compatible to the social condition. If the people are below poverty line primacy may be given to the socio-economic justice. Justice is the first virtue of social institutions as truth is of systems of thought.

Regarding governance and justice, the constitution of Nepal 2072 has provided some of the aspirations in the federal republican state as the supremacy of law, rule of law, representative system, citizen's importance, separation of power and balance of power, provision of civil rights and multilateral relations. The proper and strong regulatory mechanisms disperse the actual reflection of development and prosperity in federal Nepal. For the successful implementation of federalism in Nepal the governance and justice are primary requirements.

## **Historical Perspectives of Governance and Justice System in Nepal**

### **Ancient to Medieval Period**

Since time immemorial, Nepal discharged her justices and responsibilities in an effective, transparent and accountable manner through the medium of Dharmasastra. In ancient period, the governance and justice laid in religion which was playing vital role for creating development and prosperity. Up to 1178 AD, there were Gopal period, Mahishpal period, Lichhavi period and Thakuri period where governance and justice was the instrument of the orders of the Kings. Kirat kings of the Mongoloid family

administered justice as per the Mundhum – their holy scripture. Kirats respected justice and they thought Dharma or Mundhum as the integral part of justice (Chemjong, I.S). The king was said to be the representative of God and his main duty was to enforce law and dispensed justice and governance according to divine law or Dharmasastra. The first ever known justice system in Nepal was introduced by Kirat dynasty; a Mongoloid tribe originally migrated from some province of China via Tibet (Sangroula: 2010).

After Kirats era, Lichhavi period began in 250 B.C. which ruled in Nepal accordance with Dharmasastra namely Manusmriti, Yagyavalkyasmriti, Sukraniti, Kautilya Arthashastra, Customary laws, Rajagya (king order) and Sanad (order on specific topic). Several Smritis and Sastras were the greatest instrument of governance and justice during Lichhavi period. The kings were regarded as the fountain of justice and promoter of governance. They introduced a limited form of local self-governance system, which was known as panchali stated by Nepalese Historians (Sangroula p. 13). The Lichhavi dynasty introduced Brahminic (orthodox) Hinduism as an official religion as well as the foundation of the social relations and governance. The Lichhavi era reveals a series of efforts made to systematically Hinduize the law and justice system of Nepal. The governance system was administered by Hindu scriptures and the system of justice could not be an exception (Sangroula p. 15).

During the medieval era, Malla period ruled especially in Kathmandu, Patan and Bhaktapur cities before unification of Modern Nepal by Prithivi Narayan Shah in 1771 (1828BS). Governance and justice were provided through the means of Dharmasastra, Customs, Rajagya and Sanad and Codes. Jayesthiti Malla"s contribution of Manab Nyayasastra (Code of Legal Rules for Human Justice) was one of the seminal written code before Napoleon code in France which represented the beginning of governance and justice in the history of Nepal. The code of Manab Nyayasastra was fully based on the concept of governance and justice. Based on the statement of Prithivi Pal Malla, one of its kings, found in a golden inscription, some historians have described its judicial system as highly developed and permeated with high sense of justice. This inscription mentions "Only society respecting the value of justice could be a civilized society. The religion means justice, and the king, not being above the religion, is not above the justice. So, Justice is to punish the dishonest and protect the honest" (Shah 1992). Malla kings emphasized the need of decentralization in administration and justice. Codified law existed to operate the society having full of justice and governance.

Prithivi Narayan Shah formulated important rules for dispensation of justice. He respected Ram Shah's formulating rules and edicts (Thiti) on various aspects for running administration of justice. Though king Ram Shah did not promulgate a comprehensive codes of laws, he developed a series of Thiti (rules establishing system) to be followed by

ordinary people. Where he recognized the principle of natural justice in the administration of justice. The 14th edicts of Ram Shah deserved special position in the natural justice system that provided governance to people.

Ram Shah administered justice on the basis of Sukraniti (ibid). Ram Shah himself presided over the Dharmadhikara. The court was called Dharmadhikara because justice was dispensed on the ground of Dharmasastra. After unification of modern Nepal, Prithivi Narayan Shah followed traditional justice system as well as the law propounded by Yagyavalkya Smriti, according to which king should appoint competent judges to administer justice in his absence. PN Shah's codes had been followed by the Muluki Ain in 1854 (1910 BS) which was promulgated by Janga Bahadur Rana.

### **Prithivi Narayan Shah, Builder of Modern Nepal to Rana Period**

Prithivi Narayan Shah administered justice and governance on the basis of the legacy of Ram Shah. No other kings after Ram Shah had made remarkable legal reforms except King Surendra Bikram. However, King PN Shah developed reforms in making judicial system for creating justice and governance in the nation. In such reforms, he composed of different types of cultures, society, and people living in different geographical conditions. In one context he said, "King should provide complete justice to the people. Let injustice not be prevailed in the land. Those who offer bribe and accept bribe are destroyers of the justice and the great enemies of the state. It would not be injustice even to take lives of such people" (Shah, p.195).

Rewati Raman Khanal claimed that PN Shah had developed legal charter and codes to maintain governance and justice. According to him PN Shah issued Penal Code in 1825 for governance and justice. Some of the provisions of this Code were also incorporated in the code of 1910 (Tripathi 2016). The Muluki Code in 1854 had been promulgated by King Surendra Bikram. The historians and lawyers claimed that Janga Bahadur was inspired by the Napoleon Code and designed to make codified law. The code was promulgated to provide equal punishment for the same crime from the preamble of the Ain 1943 BS. The administration of justice before 2007 BS was based on country code and religion.

### **Period form 2007 BS to Present Days**

After the promulgation of the Interim Government of Nepal Act, 2007 BS, several changes occurred in our legal system. The reception of foreign law started in Nepal when the Pradhan Nyayalaya Act, 2008, an Act of constitutional importance. It was influenced by West-ministerial model of polity, or the British Indian tradition. Previously we had inquisitorial or civil law case model for delivering justice and governance. This Act introduced the precedent and writ system in Nepal. Hari Prasad Pradhan was an Indian

who took the post of Chief Judge of the Pradhan Nyayalaya. Different Acts were commenced to establish governance and justice such as Civil Right Act, 2012, Essential Goods Protection Act, Foreign Currency Control Act, Interpretation of Statute Act, 2010.

The contribution of Sir Ivor Jennings for drafting the constitution of the Kingdom of Nepal, 1959 transplanted the West-ministerial model of government (Tripathi, p. 278). Similarly, more other Acts such as the State Case Act, 1961, the Land Reform Act, 2021, the Evidence Act, 2031 were the most remarkable Acts creating governance and justice system. The later constitutions 2047 BS and the Interim Constitution of Nepal 2063 BS brought major fundamental changes in the legal system. The present constitution of Nepal 2072 BS has brought essential changes and provided Nepal is an Independent, indivisible, sovereign, secular, inclusive, democratic, socialism-oriented, federal democratic republican state. The main objectives of all the constitutions, Acts, Rules and Regulations of Nepal were/are to administer and promote governance and justice.

### **Challenges in Promoting Governance and Justice in Nepal**

Albert Einstein says that peace is not merely the absence of war but the presence of justice, of law, or order in short of government. Authoritarian rules, poorly functioning legal system, bad governance and improper justice and dilapidated education and health infrastructure usually challenge justice in the societies. Where government fails to meet public needs and provide essential services or cannot solve basic development problems (UNDESA and UNDP 2007). The challenges faced in governance and justice can be categorized into several key areas: security, politics administrative, judicial, economic, socio-cultural, access to information, political leadership and climate, culture and practice of bureaucracy, and the challenges of accountability and transparency (Dr. Rijal).

**Security Challenges.** According to the National Security Policy 2016, national sovereignty and territorial integrity of the country shall not become a subject of discussion and compromise, and all forms of extremist and separatist tendencies will be discouraged. The Nepalese Army, the strong force of the nation and peace building campaign of the world, is purely a peace keeping force of the nation but it is not sufficient for maintaining peace, justice and security. Compared to the military, the police force is ill-equipped and poorly trained. Rule of law, justice and governance as a priority area for security sector reform in Nepal. The reform of police, justice and intelligence needs to emphasize. The government reports suggest that corruption is endemic in the police force, pointing to widespread acceptance of bribes and extensive police involvement in organized crime. The insufficient oversight of the security, lack of co-ordination and information sharing between civilians and military authority and lack of political will for empowering security forces are major challenges.

**Political-administrative Challenges.** The Nepalese people since 2007 BS fought for democracy but it remained incomplete until the promulgation of the constitution of Nepal 2072 BS. The revolution of 1990 brought a new constitution but the hopes and expectations of the people were failed. Lok Raj Baral notes that democracy was turned into 'Kleptocracy' that produced a new generation of nouveau rich and elites, who paid no attention to minimizing the disparities in the societies (Baral, 2003).

However, new political leaders fail to change traditional hierarchies fundamentally. The extensive peace agreement between the seven political parties and the Maoist movements brought fundamental changes where people have practices new agendas as federalism, secularism, democratic republican state and the promulgation of constitution through constitutional assembly. Seven decades long struggle of people for making constitution from constitutional assembly successfully enacted from 2072 onwards. Yet the corruption, horse-trading and instability became the order of the day. The half educated and fully unemployed are already radicalized by the moderate leftist, who promised to deliver utopia but failed to provide clean government (Rijal, 2012). Still the weakness and the lacks of unity jeopardize the concept of governance and justice.

**Economic Challenges.** Economic freedom is the fundamental right of every human being. The government should address people rights to produce and supply openly in the liberal market economy. But in Nepal there are several hurdles. Nepal is a land locked country that faced India's blockade many times without any cause. Blockade of India to Nepal makes life of peasantry, industrialist and others much more difficult. The primitive style of farming still prevails that cannot be sufficient to sustain from the agricultural sector. The hydroelectricity and tourism sector are an important source of economy but they have suffered significantly due to the insecurity and proper law and order.

**Socio-cultural Challenges.** Nepal is the land where several religious, ethnic people speak more than 123 languages. They live in different geography with different cultural domination. The ethnic groups live in the primitive stage lacking the basic needs of human development, illiteracy, poverty, lack of basic health services, gender discrimination, exploitation of women and children, caste hierarchy, superstitious belief and fatalism are the basic socio-cultural challenges. The ethnic organization wants fundamental changes in the society and the state. The rigorous efforts are needed to bring governance and justice in the Nepalese societies. Such socio-cultural challenges are to be settled only by the decentralization, distribution and rotation and representation of power (Jalali and Lipset, 1992).

**Judicial Challenges.** The purpose of law is to provide justice and reduce pain. The major work of judiciary is to deliver justice in time with efficiently and

economically. Many years we practiced unitary method in judicial system having three tiers of courts including Supreme Court, Appellate Courts and the District Courts. Federal Nepal exercises Supreme Court, High Courts and the District Courts respectively. Judiciary has failed to deliver timely and equitable justice and have been complimented with the controversy of appointment. Nepal is still struggling to have a political collaboration trying to manage an effective judicial system. The constitution provides for an independent judiciary, but most of the courts suffer from endemic corruption and many people have limited access to justice (NHRC, 2011). Such activities encourage the culture of impunity posing serious threat to justice system in Nepal.

***Lack of Access to Information.*** Press is one of the important source of information. Press freedom continues to face a serious threat. The ongoing attacks, threats and harassments to media personnel and organizations sufferable for press freedom. The beauty of democracy is freedom to deliver information. If such freedom is curtailed, governance and justice move away from at the hand of the people. Without genuine freedom of press people cannot achieve democracy, human rights, governance and justice.

***Geo-political challenges.*** Thinking of geopolitical sensitivity and geo-strategic balance, the issue of national security is regarded as a very sensitive issue. The promulgation of the new constitution through the constituent assembly has now received federalism of three forms of government as local, provincial and federal. The small and poor countries seem to be deprived of many things because they lack resources, economy, and the proper mechanism to settle the crisis and depend on the neighboring and other countries. In place of their cooperation, the donor countries try to intervene them taking advantages of their vulnerable situation. Along with the traditional threats, the trend of separatism and national identity of ethnic groups is increasingly affecting the very nature of state system and will be a major security concern (Thapa, 1997). However, Nepal's major concerns are size, location, regional conflicts, and poverty and ethnic diversity.

Similarly, growing public disappointment reflects the poor performance of all the governing institutions. Weak governance is felt in daily lives. Building public trust is the foundation of good governance and justice. It requires not only improvement in performance to produce more but also the capacity to distribute them reasonably.

***Political leadership and climate.*** Political leaderships for a long time seem to be less serious on public welfare but rather emphasis the personal and party interests. Consequently, people dissatisfy and alter autocratic government. "A successful politician in Nepal is, therefore, a corrupt person generally. In this respect, the politicians in the

local elected political bodies too are generally no different, as their national counterparts (Shrestha 2004).”

***Culture and Practice of Bureaucracy.*** For governance and justice, a real need of mindset of the majority of civil servants to change their behaviour and mindset. Cultural values of them should be improved to competence and to achieve better results by enhancing the quality of services. Today Nepali bureaucracy remains much more criticized by the people. Today neither the political leaderships nor the permanent civil service personnel are looked up positively for the development of administration and mitigation of poverty (Shrestha, p. 31). Building public confidence over the integrity and efficiency over bureaucracy is one of the serious challenges for promoting governance and justice.

***Accountability and Transparency.*** Proper accountability and transparency are not clearly defined in most of the cases. As a consequence, facts are distorted and they sometimes create mistrust between state and public.

From these above premises, developing countries and newly emerging democratic states are facing multiple challenges in providing good governance and justice.

### **Prospects of Promoting Governance and Justice**

The construction of security, economic, political, legal and judicial trust are the major foundation of good governance and justice. The reforms in civil service, the improvements in financial management and accountability, the adaptation and implementation of anti- corruption strategy and decentralization of power to local and provincial level are the key matters of federal government. The following components are the major prospects of consolidating, reforming and making governance and justice more effective in the federal democratic system of Nepal.

***Security prospects.*** Security measures to maintain peace and order in the society. Security must be provided to all the citizens. Police and security forces are essential to the promotion and protection of human rights and human securities.

***Political prospects.*** Creating system is an absolutely the crucial matter. Political arrangements are crucial for governance and justice.

***Economic prospects.*** Economic prosperity is another main pillar for governance and justice. It provides an excellent opportunity to flourish economic activities. It creates jobs, earnings and material survivals. Foreign investment in electricity, and mega projects create job opportunity to the citizens. The success of governance and justice lied in the legitimacy of economics concerns. The different international agencies like WTO, IMF, UNDP, directly invest for promoting national income.

**Judicial prospects.** Implementation of proper policy is the outcome of judiciary. Justice overcomes violence. Judiciary creates public trusts and transparency. The constitution of Nepal 2072 has provided for an independent judiciary which controls endemic corruption and many people have access to justice.

**Information prospects.** Media is much border than news sources. Media communicates information to the public. It provides and delivers substantial information about the means of governance and justice.

Without peace, stability, human rights, and effective law we cannot achieve rule of law, good governance and justice. The peace, security, prosperity, access to information, rule of law and judicial activities are the inevitable things for justice. All of the prospects are at the center of governance and justice for sustainable development and prosperity.

### **Conclusion**

Governance and justice demand accountability, transparency, rule of law and independent judiciary. All of the eras seek equal opportunities to all for the benefit of the society. Institutions, divisions of power, decentralization, electoral systems, periodic, elections, independent judiciary, capacity building, and other characteristics of the states are the foundation of federal governance. Promoting good governance faces a multidimensional challenge. Justice establishes order if there is a riot in the street. Justice threatens starvation and mitigates hunger. Many of the theorists, social scientists, critics, anthropologists, feminists, Marxists loudly demand governance and justice for the prosperity and development of federalism. For example, anti-corruption is essential to the rule of law and peace building because corruption negatively impacts state capacity, social inclusion, and management of natural resources. Governance and justice in the past incorporate with dharmasastra and in the present days they are adjusted with rule of law, accountability and transparency. Federalism also necessarily to combat effectively with violence, conflict, unlawful activities for inviting governance and justice. The development and prosperity is administered only through the stability of the governance and proper justice system. So, governance and justice is a matter of recreating issues then and now in Nepal as well as in the world.

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# Re-envisioning Development Governance in Nepal: Exploring Collaboration between Development Organizations and Local Levels

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## Abstract

This concept paper calls the local bodies of the Government of Nepal to explore collaboration with the development organizations at the juncture of state restructuring following the declaration of The Constitution of Nepal 2015. The paper employs a social constructivist approach to look at development governance and suggests collaboration based on strengths perspective for effective and efficient development practice in Nepal. This concept paper is based on primary experiences of the author and secondary literature review. It suggests a three-pronged approach for collaboration and offers insights on the basics of such collaboration.

*Key Words:* Collaboration, development organizations, local bodies

## Introduction

Nepal witnessed the declaration of its much-awaited Constitution, drafted through a Constituent Assembly process, on 20 September 2015. This constitution restructured Nepal from a unitary structure of governance to a Federal Democratic structure. Nepal was thus politically divided into 7 Provinces and 756 local levels. The earlier structure of governance has received several criticisms for its inability to address the development needs and governance in Nepal. The public system in Nepal has been criticized as being poorly managed and resourced and corrupt amidst an unstable government; in the absence of good governance and efficient institutions, there is a risk that effort of NGOs and foreign aid is being wasted and not incorporated into a country's priority developmental plan (Karkee & Comfort, 2016). Subedi (2018) highlights that the recently published World Bank Report 'Public Launch of the Systematic Country Diagnostics of Nepal' (2018) flags that the present model has failed to achieve rapid development and poverty reduction goals. It further says Nepal needs to immediately change the development model in order to succeed its federal system. Pokharel (2015) argues that Nepal has everything in place including abundant natural resources, adequate workforce, democratic institutions and practices, supportive international community and stresses the need for effective governance.

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Studies show the lack of proper co-ordination between governmental and nongovernmental organizations (see Dhakal, 2007; Dhakal & Ulvila, 1999; Pokharel, 2015). Dhakal (2007) presents that weak financial base, lack of professionalism, lack of monitoring and evaluation, lack of transparency, lack of commitment among the NGO activists, and the absence of public surveillance are some of the key challenges of the earlier system of governance. Pokharel (2015) furthers that low accountability, responsiveness and transparency; rampant corruption, non-inclusive governance; low credibility of public institutions and over politicization in governance add to this challenge. My own experiences of working as a development practitioner resonate with the claims made by both Dhakal and Pokharel. The problem of effective coordination between development organizations and Government includes lack of clearly specified modus operandi in the existing legal instrument for a better coordination among the NGOs and the local development agencies; politicization of Social Welfare Council (SWC) executive committee, rather than a professional approach based on competence; lack of SWC capacity to govern increased number of affiliated NGOs/INGOs; and lack of a clear demarcation of functional roles in the SWC Act between Ministry of Women Children and Social Welfare, and SWC for governing the NGOs (Dhakal, 2006). Dhakal (2007) states that the lack of coordination and absence of understanding among the NGO communities and the government often creates a problem of doubt in Nepal.

In the context discussed above where a significant gap between the Government and development organizations can be clearly seen, the constitutional delegation of power through restructuring of the State provides us with opportunities to re-envision development governance in the nation to do away with the existing inadequacies and ineffective coordination. This paper focuses specifically on collaboration between development organizations and local levels and how the earlier problems associated with development governance in the country can be dealt with to make development interventions meaningful, efficient and effective.

### **Theoretical Framework**

The paper adopts a social constructivist approach to look at the area of development governance and is guided by the belief that knowledge is produced through lived experiences and discourses. According to Vygotsky (1968), who introduced this approach, language and culture play essential roles both in human intellectual development and in how humans perceive the world. Humans' linguistic abilities enable them to overcome the natural limitations of their perceptual field by imposing culturally defined sense and meaning on the world; language and culture are the frameworks through which humans experience, communicate, and understand reality (gsi.berkeley.edu). The paper relies heavily on strengths perspective suggested by

Saleebey (2002) who believes that working with clients should be focused on the client's strengths. The paper also draws from collaboration theory which calls for joint decision making among key stakeholders (Wood & Gray, 1991). This is a concept paper based on primary experiences of the author and secondary literature review.

### **Operationalization**

The key concepts in this paper are development governance, collaboration, development organizations and local level. Development organizations, in this paper, refer to any non-governmental, non-profit, voluntary citizens' group organized on a local, national or international level; local level refers to the village bodies, municipalities and district assemblies that are said to fall under the local level as per The Constitution of Nepal, 2015; development governance refers to the way rules, norms and actions are structured, sustained, regulated and held accountable, and collaboration is a process of joint decision making among key stakeholders of a problem domain about the future of that domain (Wood & Gray, 1991).

### **The Development Challenges**

The fundamental question beginning the discussion on re-envisioning development governance is if development organizations understand the multiple realities of the communities they claim to change with their intervention. It is crucial to evaluate the extent to which development organization understand the perception of realities of the beneficiaries whose lives they intend to change (Powell, 2006).

A common criticism of participatory methodologies is that despite their claim to be inclusive of stakeholders they very often use participation as a technique for planning projects identified by the donor rather than raising discourses on where people participate and where they do not (Hickey & Mohan, 2005). Another common criticism is that local politics are often disregarded and development planning overlooks the challenges that frontline workers face on an everyday basis. (Townsend et al., 2002) also point to the problem in sheer volume of documentation and highly bureaucratic engagement demanded by donors that is reducing the time and quality of contact between partners often resulting in slow and inefficient implementation of development intervention.

Another criticism that I have often heard of development organizations is that they are mostly result driven and less focus is given to the process. An example can be taken of the ubiquitous Self Help Group (SHG) models where formation of SHGs is done with little work on the process of formation and not much attention is paid to inclusion-exclusion within this process and the membership of the SHGs; I have experienced this myself in the evaluation of SHG groups in parts of Nepal Another problem spotted by a majority of the people with any experience with the development organizations is their

external accountability (or donor oriented) nature. Dhakal (2007) contends that Nepali NGOs are primarily funded (up to 95%) from donors and INGOs, funding from the government accounts around 4% and mere contribution of 0.5% is made by members of the NGOs; this presents severe financial crisis in the absence of donors often leading NGOs to compromise to the conditions of donor/INGOs.

With the constitutional delegation of power to local bodies, there is scope for the much needed change to happen within development organizations. There is an opportunity to move from an agenda driven format set by donors towards a client centered perspective where the clients are treated as experts by experience. One such model is community organization suggested by Ross (1967) where a community identifies its needs or objectives, orders these needs or objectives and takes action, and in so doing develops a co-operative and collaborative attitudes and practices within the community. In this model, the community itself lists out internal and external resources to deal with the problems they identify or pursue their chosen interests. They also have an opportunity to move away from being output oriented to process oriented, paying attention to the people and organizations that play a crucial role in the organized change. The development organizations also have an avenue to shift their accountability from external funders to local clients. There is also ample scope to move towards intra-agency collaborations to make development work reliable, wide, effective and efficient.

The Constitution of Nepal 2015 has opened limitless opportunities for the local levels. They can now shift from the Kathmandu centric governance to local self-governance; from inadequate monitoring and evaluation to a closer monitoring and evaluation; from a state of unclear development agenda that is most often left at the discretion of donors to local levels setting their own development priorities. The move from bleak bureaucracy and Red Tapism to a responsive and accessible bureaucracy can be phenomenal in the arena of development governance.

### **The Way Ahead: Re-envisioning Development through Collaboration**

In the pretext that development governance suffers largely from ineffective coordination between key stakeholders, this paper proposes strategies for collaboration between the local bodies and the development organizations which could be crucial to effective development. In this section of the paper, I suggest a three-pronged collaborative approach to development and offer the basics for such collaboration. I propose that development in Nepal through the local levels can be re-envisioned through a three-pronged collaborative approach ARK which would stand for agenda setting, resource mapping and keen collaboration.

## **The Three-pronged ARK Approach**

As part of this approach, local levels set their agenda for development and invite relevant development organizations to collaborate; they map out all development organizations and services in their jurisdiction to foster collaborations encouraging the sharing of best practices, building on and avoiding duplication of work; and ensuring a keen collaboration where local levels demand accountability from development organizations and provide efficient support in return.

### **Agenda Setting**

Nepal is a nation with multiple realities with people having multitude of lived experiences and wide-ranging strengths and challenges. Thus, setting up one agenda or development plan for all the country is neither possible nor desirable. Although helping the marginalized and the vulnerable needs an individualized treatment, the local bodies can identify the key issues among their constituencies and decide on their priorities. The key in agenda setting is bringing the constituencies together and deciding on development agenda through a democratic decision-making process.

### **Resource Mapping**

Resource mapping is a strategy commonly utilized in the development sector to identify and analyze the existing resources in a community including people, programs and services. Also known as community resource mapping, it helps a community to better identify its needs and decide on the areas of intervention. Toolkit: Community Resource Mapping (n.d.) shares the following principles that are important in and integral to the mapping efforts: a) mapping strategies focus on what is already present in the community with the idea to build on the strengths within a community; b) mapping is relationship-driven where the key to mapping efforts is the development of partnerships—a group of equals with a common interest working together over a sustained period of time to accomplish common goals; and c) mapping embraces the notion that to realize vision and meet goals, a community may have to work across programmatic and geographic boundaries. Local bodies can conduct a thorough mapping of their communities with the help of their constituencies; such exercises can help to build the confidence of communities to address their needs with their own resources and to take charge of their problems. Nevertheless, it is a very helpful strategy for identifying resources that can be used in community organization and development practices.

### **Keen Collaboration**

I contend that a socially just and mutually beneficial partnership can be formed between the development organizations and the local bodies in a collaborative effort to re-envisioning development in Nepal. By keen collaboration I suggest that local bodies

should provide the development organization with effective support to run their programs including linking them to existing resources, efficient administration and the development organizations should in turn offer accountability to the local bodies and collaborate in the agenda set by them. The work of the development organizations should focus on strengthening existing resources including human resources and empowering the partners in development including those who benefit from their programs and services directly or indirectly. Development organizations should envision programs that would ultimately be handed over to the communities so that newer programs and services can be envisioned through this keen collaboration. Here I offer the basics or the ABCs for such collaboration which should significantly pave the way forward in development governance:

### ***Amalgamating Knowledge.***

The first pillar for keen collaboration that I suggest is amalgamation of knowledge accumulated by the development sector with the existing knowledge of problems and solutions in the communities. Basing on the fact that most of our development organizations have connections in the Global North it will be opportune to bring together the cutting-edge Information and Communication Technology from the Global North and our indigenous knowledge and practices. Such an amalgamation might be mutually beneficial as development organizations can learn from communities throughout the world and share best practices so that knowledge sharing can happen in its truest sense.

### ***Building Knowledge Banks.***

The second pillar for keen collaboration that I suggest is building of the knowledge banks by local bodies. Powell (2006) opines that the crucial point to be made about 'knowledge' in relation to development is that there is no universal understanding of what it is; we all 'know' the world through a combination of our education, language, culture, and belief and, just as importantly, our actual physical realities - gender, location, socio-economic environment. Powell shares the social constructivist paradigm that the author takes on knowledge claiming that how life is known, that is, how it is experienced and understood inevitably varies profoundly according to these differences.

We know that all development organizations maintain information on their programs, either for their own administrative purposes or to meet donor requirements. We have seen that organizations in Nepal that attract donors generally have better recording, monitoring and evaluation systems. Such evidences can be significant in future planning purposes. The biggest challenge, though, lies in bringing such evidences together. We have seen that much of the publications and researches conducted on and by the development organizations in Nepal have been valued outside of Nepal and there is

an inadequate management of such practice-based evidence within the nation. The duplication of work by development organizations has thus been difficult to track and there has been inadequate sharing of best practices. Very often organizations conceptualize and implement projects in new practice areas from scratch and Powell (2006) flags that it can be highly alienating for those local people involved who, not infrequently, find themselves being asked the same or similar questions time after time, without necessarily seeing much tangible benefit as a result. Local bodies can lead the creation of knowledge banks for practice-based evidence which will in turn lead opportunities for evidence-based practices within their constituencies.

### ***Co-constructing Knowledge.***

The third pillar for a keen collaboration that I suggest is co-construction of knowledge. Powell (2006) flags that we have to consider what 'knowledge' means - not only to ourselves, but also to the other stakeholders involved - and think about which 'knowledge' we are referring to. Powell challenges that the current writing on knowledge management that typically offers a neat hierarchy of data, information and knowledge is not incorrect, but it gives a misleading impression of simplicity. Powell (2006) also points that all visions view development as a process which involves change for the better; it is a process which cannot happen, and certainly cannot lead to the intended outcomes, unless it is based both on a good understanding and appreciation of the socio-economic reality that the development is intended to change. It is therefore crucial to appreciate and integrate the knowledge and experiences of the local population who are experts by experience with the knowledge and experiences of the development practitioners who are experts by training.

Relevant in this context is the domination of English language in the development sector. The bulk of the funding for development activities in Nepal comes from the global North and with it comes the conditions attached, beginning from selection of development partner/s, reporting, monitoring and evaluation requirements which are in English. This is particularly disempowering for the workers and agencies in the frontline who have the experience and the expertise of working in communities but struggle with the English language. This has inevitably resulted in employment of professionals with an expertise in English rather than expertise in working with communities at higher levels of development management. This in turn has also contributed to an artificial knowledge gap between frontline practitioners and donors. Powell (2006) contends that by failing to engage systematically with local languages, the sector limits its understanding of and its ability to communicate with most of its intended beneficiaries and failure to addressing the issue of language fully carries the high costs of ignorance and inefficient

communication. In order for development to be about life, it has to be able to connect with the languages of the beneficiaries (Powell, 2006).

This sensitive yet very important situation presents the local bodies with an opportunity to bridge the gap by bringing ‘experts by training’ and ‘experts by experience’ together. It will be opportune to bring in social workers in the team who have the academic orientation on working with individuals and communities; are equipped to deal with the complexities of development work with utmost sensitivity, and are trained in a foundation of social justice, human rights and respect for diversities. IASSW (2014) declares that social work engages people and structures to address life challenges and enhance wellbeing with an underpinning by theories of social work, social sciences, humanities and indigenous knowledges.

### **Conclusion**

The promulgation of the people’s constitution and redistribution of governance in Nepal through State restructuring has undoubtedly provided an opportunity to re-envision development Governance in the country. It also presents a great vantage point to establish collaboration between development organizations and local levels in a way that could not be done in a unitary system of governance. Although the idea of bringing donors to work in Nepal in her own terms and conditions might look ambitious and herculean, it is a much-needed step towards effective change that both the Government of Nepal and the development organizations envision.

The development organizations in Nepal, in the past, have been Kathmandu centric and donor driven, and little space had been set aside for indigenous knowledge and practices. Thus, at this important juncture in nation building it is imperative to re-envision development governance that would be accountable to its constituencies more than the donors and mobilize aid in their own terms and conditions so as to obtain optimal results. A three-pronged strategy of agenda setting, social mapping and keen collaboration can be effective in building collaborative development governance in the country where the local bodies are active leaders in defining and prioritizing their development needs and keys in bringing all the stakeholders together. A prominent need identified in this paper is the acceptance and appreciation of local knowledge and expertise and democratic involvement of all stakeholders in governance. Although re-envisioning development governance in Nepal and exploring collaboration between development organizations and local levels poses many challenges, it presents significant opportunities for development workers, particularly social workers, to pave way for neo development governance that would benefit the most vulnerable and the marginalized in the country in a way that is way organized than ever.

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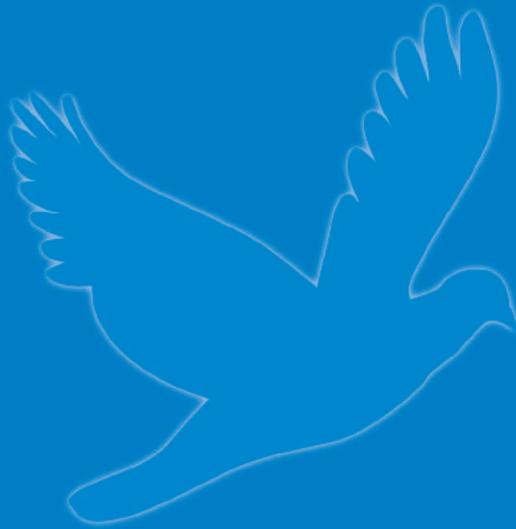
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YEAR 1

YEAR 2

YEAR 3

YEAR 4

YEAR 5

YEAR 6

VOLUME 7

DECEMBER 2018

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